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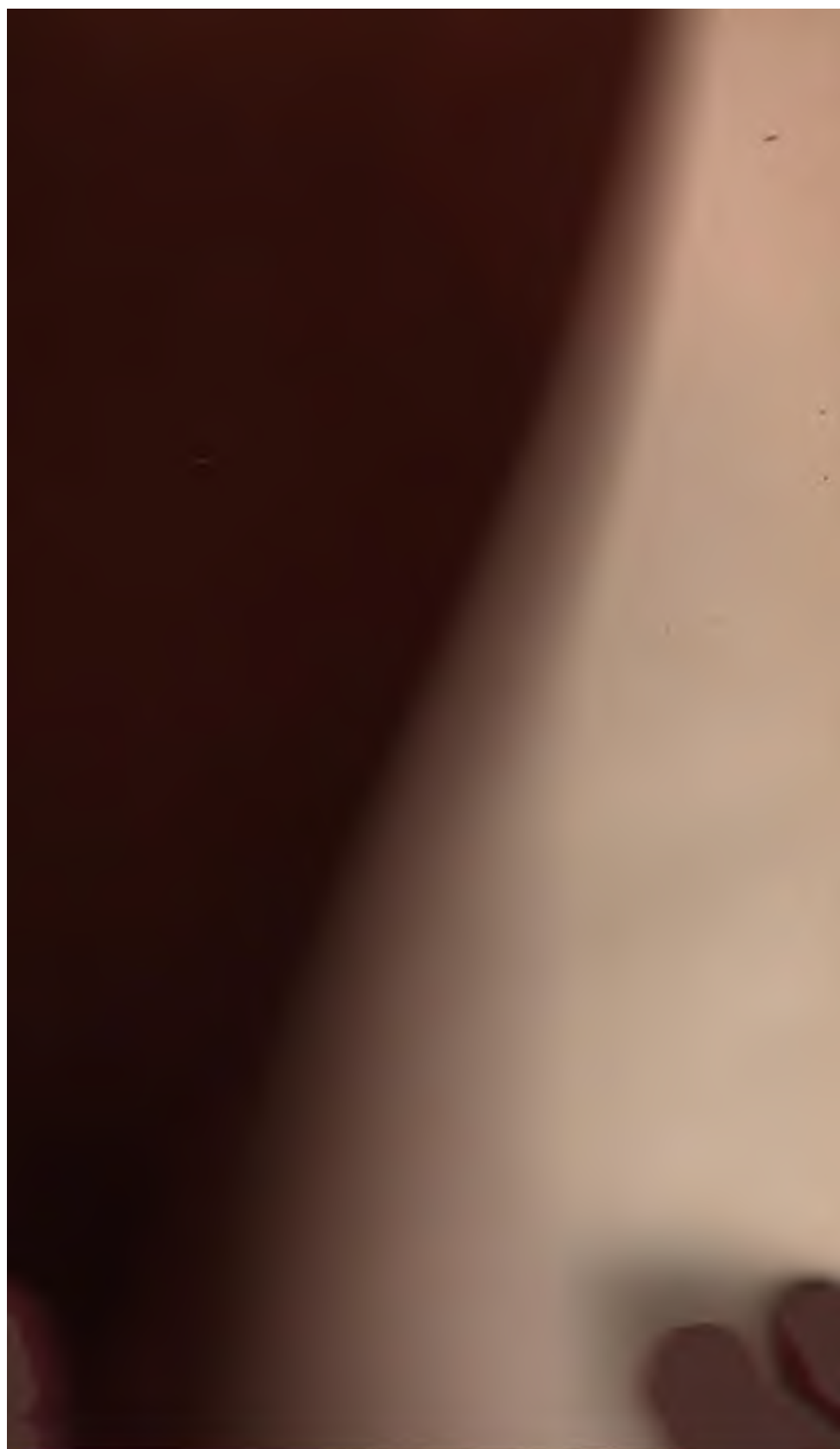
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THE  
CONSTITUTIONAL  
AND  
POLITICAL HISTORY  
OF THE  
UNITED STATES.

BY  
DR. H. VON HOLST,  
PROFESSOR AT THE UNIVERSITY OF FREIBURG.

TRANSLATED FROM THE GERMAN BY  
JOHN J. LALOR.

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1850—1854.  
COMPROMISE OF 1850—KANSAS-NEBRASKA BILL.

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## PREFACE.\*

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The six years whose history is treated in this part of my work, [this and the following volume of the American version] are the most important in the development of the "irrepressible conflict," between the north and the south. How fully warranted that expression of Seward was, becomes more apparent than ever, during this period. The want of reason, the passions and the increasing demoralization of the professional politicians are, indeed, still found in alliance with the powers of fate, but at the same time, their impotence in the presence of the progressive and sternly logical development of actual circumstances, becomes more and more apparent. Seldom has the *What*, that is the *Essential* in a process of development in the world's history and the life of a great civilized people, been so little influenced by what the holders of political power have done or left alone, as in this case. What they did and what they left undone, had a modifying effect only on the *How* of the process, and even on that only in a surprisingly small degree, because the leading politicians themselves were a necessary product of those actual cir-

\*Owing to the size of the fourth installment of Dr. von Holst's work in the original German (*Compromise of 1850—Buchanan's Election*), we have found it necessary to divide it into two, in English, the first covering the period from the *Compromise of 1850* to the *Kansas-Nebraska Bill* inclusive, and the second the period from the *Kansas-Nebraska Bill* to the *Election of Buchanan*. This preface of the author is therefore intended both for the present volume and the fifth of the translation.



cumstances. The more deeply one studies the sources of the history of these six years, the more irresistibly does the recognition of this fact force itself upon the mind, until at last it becomes hard to understand how there can still be unprejudiced men, in both camps and among those who stood anywhere between them as spectators or fellow-actors, who see in it nothing but an empty hypothesis.

I believe that in this volume I have made a not entirely unimportant contribution to the proof of the allegation made above, a proof which it is my firm conviction will yet be furnished by the investigation of the history of slavery—I deliberately say slavery and not slavery question—in such a shape as to put it forever beyond the possibility of dispute. In my opinion, the volume could become such a contribution, only provided I discussed this period with an exhaustiveness which, spite of my endeavors to treat only of that which is indispensable to the understanding of the subject in hand, may weary many readers. This minute and critical entering into details was all the more necessary, since this period has, in many respects—especially as regards the “finality” question and Know-Nothingism—partly because of its unrefreshing character and partly because of the tangled and intricate nature of its history—been, in a special degree neglected not only by investigators, but even by party writers. It was, therefore, even more imperative than in the previous volumes, so far as space at all permitted, to prove my position from the original sources, verbatim. Otherwise, it would have been only too easy for the representatives of traditional party views and the pretended impartial with their deep-rooted notions, to dispose of my work with a shrug of the shoulders and a few general apodictic assertions, and then, so to speak, pass to the order of the day. I could not limit myself any further in this respect, if the

PREFACE.

v

judgment criticism on both sides of the Atlantic has passed on the first three volumes of my work, was to hold good of this one also, namely, that other investigators will have to reckon with my labors. Those who come after me, however, will have this great advantage: they will be able to represent as established facts what will be looked upon as demonstrated here from the original sources, in as many lines as I have needed pages to furnish unimpeachable evidence of them.

THE AUTHOR.



# CONTENTS.

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## CHAPTER I.

### DECEPTIVE TRIUMPH OF THE COMPROMISE POLICY..... 1

Introductory Remarks on Changes of Administration.—Craving for Rest.—The Nashville Convention.—The "Fire Eaters" in South Carolina and Mississippi.—The Georgia Platform.—The Feeling in the North.—The Fugitive Slave Law.—The Union Party and Its Defeat in New York.—Reopening of the Struggle.—The Manifesto of the 22nd of January, 1851.—The Execution of the Fugitive Slave Law Meets with Resistance.—The Shadrach Case.—Declarations of the Southern Radicals.—Clay Demands an Extension of the Powers of the President.—Growing Delight in Peace.—The Charleston Convention and Virginia.—Defeat of the Secessionists in South Carolina.—Foote's Victory in Mississippi.—Ignoring the True Situation.—Wade and Sumner Chosen United States Senators.—The Compromise in the Light of the Demands for Expansion of the Slavocracy.

## CHAPTER II.

### LOPEZ AND KOSSUTH..... 45

The Cuban Filibusters.—The Spanish Ambassador and the Administration.—Lopez's First Expedition.—The Contoy Prisoners.—A New Expedition and Yulee's Prosecution.—Proclamation of the 25th of April, 1851.—Lopez's Second Expedition and the New Orleans Mob.—Changed Attitude of the Administration.—Contradictions in the Life of the People.—Attitude towards Revolutionary Movements in Europe.—Sympathy for Hungary.—Austria's Remonstrances.—Webster's Answer of the 21st of December, 1850.—Kossuth and His Associates and the Message of December 2.—Kossuth's Agitation.—Reaction in Public Opinion.—Seward's Resolution of January 20, 1852.—Departure from the traditional Policy in regard to Europe.—The Agitation a Lever in President-Making.—Young America and the Article in the Democratic Review of January, 1852.

## CHAPTER III.

## THE FINALITY OF THE COMPROMISE..... 83

The Parliamentary Situation.—The Finality Question in the Caucus and the two Parties.—Foote's Finality Resolution.—The Mississippi Resolutions.—Butler on Foote's Resolution.—Old and New Creeds of the Southern Radicals.—Rhett on Secession and High Treason.—The Southern Union Party and the Radicals.—Finality without Notice.—Finality and Party Interest.—Disunion in Both Parties.—President-Making in Congress.—The Whig Caucus and Marshall's Finality Resolution.—The Debate on the Same.—Both Parties Lose the Right to Exist and the Capacity to Exist.

## CHAPTER IV.

## THE PRESIDENTIAL ELECTION OF 1852..... 133

Substance of the Finality Declaration.—Dilemma Policy of the Southern Whigs.—Foot's Motives and Future.—Intrigues in the Whig Camp.—Webster and Fillmore.—Clingman's Project.—Fillmore the Definitive Candidate of the Southern Whigs.—Opposition to Webster.—Government Patronage.—The Liberals or Seward Whigs.—Scott's Candidacy.—His Political antecedents.—His Position on the Slavery Question.—Comparison of the Demoralization of the Two Parties.—Democratic Wealth of Candidates.—Cass, Buchanan, Douglas.—The Baltimore Convention.—Franklin Pierce.—Reasons which recommend him as a Dilemma Candidate.—The Democratic Platform pledges the Party to Slavery.—Foreign Politics in the Platform.—The Whig National Convention.—Jessup's Motion.—The Southern Resolutions and the Webster Fraction.—The Georgia Delegates.—Bott's Gag Motion.—Adoption of the Finality Resolution.—The Nomination.—Raymond's Dispatch.—Scott and the Platform.—Dissatisfaction with the Results of the Convention.—Daniel Webster's End.—Death of Henry Clay.—Defection of Southern Whigs.—Dissolution of the Whig Party and New Formation of Parties on the Basis of the Slavery Question.—Downfall of the Free-Soil Party.—The Irrepressible Conflict.—Impotence of the Politicians.—Sumner's Speech of the 26th of August.—The Senator "With a Conscience" and Official Washington.—Meriwether's Resolution.—Characterization of the Presidential Campaign.—The Election.—Disruption of the Whig Party.

## CHAPTER V.

## THE BEGINNING OF PIERCE'S ADMINISTRATION..... 232

The Whigs and the Election.—The Feeling of the People.—Giddings and the Finality Policy.—Uncle Tom's Cabin.—The Slavocracy

vs. The Times-Spirit.—New Demands of the Slavocracy.—Pierce's Inaugural Address.—Promises in respect to Home Administration.—The Cuban Question and the Message.—Pierce and Finality.—The Cabinet.—Jefferson Davis.—Caleb Cushing.—Marcy.—Quarrel of the Hards and Softs in New York over the Spoils.—Cushing and the Democrats of Massachusetts.—Pierce's Spoils Policy.

## CHAPTER VI.

## THE KANSAS-NEBRASKA BILL. ITS ORIGIN AND DEVELOPMENT, 230

The Annual Message of December 5, 1853.—Earlier Nebraska Bills.—Atchison.—The Six Western Border Counties of Missouri.—The Slavocracy and the Missouri Compromise.—The Nebraska Bill of January 4, 1854.—Criticism of the accompanying Report.—The 21st Section of the 10th of January.—The End of "Finality" and Dixon's Amendment.—The Appeal of the Independent Democrats.—Its Effect on Douglas.—His criticism of It.—Pierce's Attitude towards the Bill.—Effects of the Bill in the Democratic Camp.—Rights of the Indians.—Division into Two Territories.—The Clause on the Repeal of the Missouri Compromise.—Douglas's "Principles" Theory.—Douglas's Change of Front and Contradictions.—The Amendment of the 6th of February.—New Formulation of the Clause.—The addition "Subject only to the Constitution."—New Difficulties.—Badger's Proviso.—The Repealing Clause an Insoluble Enigma.

## CHAPTER VII.

## THE KANSAS-NEBRASKA BILL.—CRITICISM OF THE BILL. . . . . 350

Marcy and the Softs of New York.—The South claims that the Repeal of the Missouri Compromise was a Free Offer of the North.—Attitude and Declarations of the South.—The Richmond Examiner.—Divided Sentiment South.—The Bill a Base Breach of Faith.—Direct Consequences of the Repeal of the Missouri Compromise.—The Breach with the Principle of the Compromise Policy the Work of a Few Demagogues.—Douglas and his Associates promise Eternal Peace as the Fruit of the Bill.—Non-Interference and Squatter Sovereignty.—The Equity Argument.—Absurdity of Squatter Sovereignty.—Squatter Sovereignty and State Sovereignty.—Non-Intervention Means Intervention in Favor of Slavery.—The Fundamental Principle of Territorial Legislation hitherto set aside.—"Amphibious" Character of Kansas-Nebraska.—Chase's amendment of the 15th of February.—Intentional Ambiguity of the Bill.—Southern Friends of the Bill absolutely reject Squatter Sovereignty.—Intentional Deception of the People.—The Great Principle of the Bill a Conscious and Concerted Fraud.

**CHAPTER VIII.**

**THE KANSAS-NEBRASKA BILL. THE STRUGGLE..... 408**

Southern Friends of the Bill state that no "Principle" was to be Established.—Answer of the Vox Populi to the Promises of the Politicians.—The Bill Passed by the Senate.—The Protest of the New England Clergy.—A New Era Approaching.—The Agitation Among the People.—Its Effect on Douglas.—The Legislatures of the Free States.—Effects of the Bill in New York.—Announcement of the Washington Union.—The Ethical Element of the Question.—The Irish and the Germans.—The Americans of the Free States.—Adoption of Cutting's Motion.—Triumph of Douglas and his Associates of the 8th of May.—The Massachusetts Emigrant Aid Company.—English's Declaration.—The Southern Standard on the Re-introduction of the African Slave Trade.—Richardson moves the Previous Question and is Defeated.—Declarations of the Washington Union and of Richardson.—Manœuvre of Alexander H. Stephens.—Adoption of the Bill.—The Clayton Amendment.—Petit's Warning.—The Senate Drops the Clayton Amendment and the Bill becomes a Law.—The Opposition Announces the Continuance of the Struggle.—Programme of the New York Tribune.—The Formation of a New Party Begun.—Ominous Consequences of the Victory.

# COMPROMISE OF 1850

TO

## KANSAS-NEBRASKA BILL.

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### CHAPTER I.

#### DECEPTIVE TRIUMPH OF THE COMPROMISE POLICY.

The American people have frequently, and with just pride, called attention to the fact, that death has repeatedly and suddenly carried off the chosen chief of the republic, at a highly critical moment, without producing the least disturbance in the working of the gigantic political machinery of the country. Without meeting the least resistance from any quarter, the vice-president has always stepped to the helm of state, and everything has gone its accustomed way, although chance has had it, that, in every instance, there have been great differences in the opinions of the deceased president and his constitutional successor, on the dominant questions of the day. This has, naturally, led to conflicts within the party in power, that is between the executive and congress; but these difficulties have always been settled, in a constitutional way, precisely as if they had been fought out with the president elect himself. These facts are a proof to what



extent the principle of unconditional submission to the law has become part of the flesh and blood of the American people, a proof all the more cogent, as since the retirement of Washington from the stage of politics, the presidential elections have always been—and, indeed, it could not have been otherwise—the acme of party struggles. The presidential elections have frequently caused anxious minds to inquire, whether the structure of the federal republic was strong enough to stand the pressure of party passion, but the transition of the executive power from the president to the vice president never gave rise to such fears.

The struggles about the compromise of 1850 might readily have taken another course, and one materially different. They certainly would have been incomparably harder, if the contest on the slavery question had been further complicated by an immediately approaching presidential election. The period of calm which, so far as a presidential campaign was concerned, the people enjoyed and were to enjoy for some time, contributed, probably, more than anything else, to make the confident assurances of those who brought about the compromise, appear sufficiently justified, in the near future, to allow the people, far and wide, to lull themselves into an ominous security, which grew greater from day to day. People had time to think; and the longer they thought, the greater became the desire for peace on both sides. The compromise had not even endeavored to reconcile opposite views and interests, to say nothing of its having effected such a reconciliation; but the agitation of the two extreme camps broke powerlessly against the resolution of the great majority, to act as if the difference of principles had been set aside or settled. The truth is, it was only the force of inertia which brought the expectations of the extremes to naught.

Spite of momentary failure, the history of their agitation showed that the future belonged to them. The completer and more powerful the triumph of the compromise was, the more plainly it appeared that it had no secure foundation.

The Union savers were not left long in doubt as to whether the denunciation of the compromise, on the part of the southern hotspurs, had found a powerful enough echo in a large part of the southern states, to encourage the leaders to a strong and persistent revolt against that work of peace. On the 14th of November, 1850, the Nashville convention had come together again. The number of those who participated in it was not large enough to encourage it to act the challenger.<sup>1</sup> The report and the resolutions which were adopted on the 19th of November, were, therefore, much more moderate than had been intended at first. True, the report directly declared the right of secession.<sup>2</sup> The resolutions, on the other hand, clothed the same claim in a less repulsive form, saying that the states were authorized, when they considered it best, to resume the power they had conferred on the federal government. They, at the same time, laid stress on this, that only attachment to the Union had given rise to the convention, and that its sole object was the salvation of the Union. But it was likewise declared that all the evils anticipated by the south had been realized by the compromise. Hence, the whole south was

<sup>1</sup> Virginia had 1, Georgia 11, Florida 4, Mississippi 8, South Carolina 16, Tennessee 14 representatives. I do not know the number of delegates from Alabama. None of the other slave states were represented.

<sup>2</sup> When the north by its violations of the constitution endangers the peace and existence of the slave states, "we have a right, as states, there being no common arbiter, to secede." *N. Y. Tribune*, Nov. 27, 1850; Cluskey, *Political Text Book*, pp. 534, 535.



urgently warned to abstain from taking any party action or assuming any positive position in relation to the nomination of party candidates, until such time as its rights were entirely safe. On the other hand, it was recommended to hold a convention of its own, to restore its constitutional rights and to guard against all future encroachments; or, in case this should prove impossible, to take measures for its future safety and independence. The convention avoided making this proposition more precise, especially as to time and place. This was perfectly in harmony with the intimate union of will and consciousness of powerlessness which characterized its entire action. It was very clear that it represented only a small minority of the population of the southern states, and that the Tennessee delegation had acted in the sense of the majority, in the rejection of the resolutions. Spite of the uncertainty attendant in consequence hereof in the attitude of the convention, it confidently calculated that the minority would, in no way, desist from the continuation of the struggle.<sup>1</sup>

This expectation was well founded, as, at least in South Carolina and Mississippi, the Fire Eaters were, in bitter earnest, bent upon a breach. Whether, and to what extent, the declarations of the daily press, in reference to this matter, were to be taken literally; or whether they were only intended to minister to the want of sensation and to serve the policy of intimidation, was a debatable

<sup>1</sup> One point of the resolutions deserves literal quotation: "Resolved, That every county, district, parish, or other civil division of each of the assailed states do hold a primary meeting, and form a society or association to adopt and effectuate any and all lawful measures and means . . . whereby all social, commercial, and political intercourse between the south and north shall be wholly suspended until the south has obtained its rights."

question.<sup>1</sup> But in the confidential correspondence of the governors of the two states, the real views of a wide and numerous circle unquestionably found expression.

A letter of Seabrook's, of the 20th of September, 1850, had asked Quitman for information concerning the intentions of Mississippi. The governor had, on that occasion, remarked that South Carolina had good reason to act with caution, but that if two or more states showed themselves ready for resolute resistance, without regard to the possible consequences, these states might certainly count on the Palmetto state; and that he, the governor, would then immediately convoke the legislature. Quitman's answer of the 29th of September was written in the wished-for spirit entirely. The legislature of Mississippi had been convoked already, for the eighteenth of November, and now the governor informed his colleague that he intended proposing the calling of a convention which should have power to sever the state from the Union, and to enter into new federal relations; he saw no salvation except in secession and would act accordingly.<sup>2</sup> Now too Seabrook gave expression to his views with the greatest frankness. He said that he was not ready to call a meeting of the legislature, because people were universally of the opinion that the great cause would be very much injured if South Carolina were to place herself at the

<sup>1</sup> A small collection of these voices of the press is to be found in the Congressional Globe, 1st Sess., 32nd Congr., Append., pp. 283-319. I shall give only one example: "We are in favor of a dissolution of the Union. Who, oh! who, shall deliver us from the contaminating influence of the putrid, loathsome masses of the north." The *Fairfield* (S. C.) *Herald*.

<sup>2</sup> "Having no hope of an effectual remedy for existing and prospective evils but in separation from the northern states, my views of state action will look to secession." Claiborne, *Life and Correspondence of J. A. Quitman*, II., p. 37.



head of the movement. But he had become convinced, personally, during a military tour, that even those districts of the state, in which non-slaveholders constituted a large fraction of the population, were unanimously in favor of secession.<sup>1</sup> The politicians of the state hoped that the Nashville convention or the Mississippi legislature would lead to a congress of the slave states which might either propose a sufficient change of the constitution ("a new bargain between the states") or declare in favor of immediate secession. Its resolutions might either be submitted to the states for ratification or be final and binding. South Carolina was in favor of the latter alternative, in order to afford the north no opportunity to lull the south once more into a deceitful security.<sup>2</sup>

The message which Quitman addressed to the legislature kept the promise which he had given, perfectly.<sup>3</sup> It must, however, have made a peculiar impression to hear the necessity of secession established by the weakness of slavery and its lack of vital power.<sup>4</sup> This way of reasoning was correct, as far as it went, but such matchless open-heartedness placed a dangerous weapon in

<sup>1</sup> "She is ready and anxious for an immediate separation from a Union whose aim is the prostration of our political edifice." I. c.

<sup>2</sup> "The first course will produce delay, and may enable congress and the politicians of the north so to shape their policy as to create the impression among the unreflecting and timid in the South that every cause of danger to our institutions had been removed." *Ib.*, II., p. 38.

<sup>3</sup> *Ib.*, II., pp. 46-51.

<sup>4</sup> "What is to be the fate of this institution? If left to the tender mercies of the federal government its fate is doomed. With the prejudice of the age against it, it requires for its kind development a fostering government over it. It could scarcely subsist without such protection. How then can it exist, much less flourish, under a government hostile to it. A government organized upon the principle of hostility and opposition to the institution."

the enemy's hand. What answer could be given to the question, How would the institution which could not assert itself in the Union, that is against the north bound by the constitution, be able to resist the open hostility of that same north, freed from all legal obligation?

In Mississippi, too, there were men who recognized the weight of this question, and who had the courage to raise it. One of the principal tasks of the legislature, in this extraordinary session, was to give expression to its formal censure of Foote's course during the compromise transactions.<sup>1</sup> But Foote was not a man to accept such a censure in humble obedience. Although the most influential circles almost without exception stood against him,<sup>2</sup> he immediately engaged in the struggle with fresh confidence and passionate energy. On the very day of the opening of the legislature, he had caused a mass meeting to be held in the city hall of Jackson. About fifteen hundred people were present, and the meeting took a decided stand in favor of the compromise. This gave the necessary impulse to the formation of the Union Party, and the Fire Eaters who had hitherto been in the ascendancy saw themselves so closely pressed in the entire state that the issue of the struggle became very doubtful.

If the remaining slave states had, like idle spectators, waited for the watch-word which it might please Mississippi to speak, Foote and his adherents would probably have been defeated. The greatest, and perhaps the deciding influence, was exercised by the fact, that when in Mis-

<sup>1</sup> Nov. 30, 1850. See the resolutions, *Congr. Globe*, 2nd Sess. 31st Congr., pp. 65, 66.

<sup>2</sup> "I found almost the whole legislature arrayed against me, the executive department, and nearly all the judicial officers of the state. The newspapers were nearly all of the secession stamp." H. S. Foote, *Casket of Reminiscences*, pp. 353-355.



issippi, the battle began really to rage, Georgia declared emphatically in favor of the compromise, while Seabrook, in the second letter to Quitman, above referred to, still held it to be possible that that state would take the initiative in the matter of a congress of the slave states. As the admission into the Union of California with a constitution which professedly contained the "principle of the Wilmot proviso," had taken place, Governor A. G. Towns had, in accordance with a state law of the 8th of February, 1850, by a proclamation of the 23rd of September, appointed the 25th of November for the election of delegates to a state convention.<sup>2</sup> By a vote of 237 against 19, this convention adopted the so-called Georgia platform which became the common programme of the Union Party in the whole south. The satisfaction of the savers of the Union of both sections at this result was great; for it seemed impossible that the opposition of the Fire Eaters to the compromise could still lead to a direct imperiling of the Union. This view was correct, but the real value of the platform of the new Constitutional Union Party, organized on this basis, was not to be measured by the declaration that, although the compromise could not be fully approved, it should nevertheless be the final settlement of sectional contention. The declarations which were really decisive for the future, were contained in the fourth paragraph which connected the continuance of Georgia in the Union with a whole series of conditions, and which did not confine these conditions to what, in the opinion of the south, would have been undoubtedly unconstitutional, but extended them to what, independently of the constitutional question, was looked upon as abso-

<sup>2</sup> The New York *Tribune* of Sept. 28, 1850, printed the proclamation with the superscription: "Georgia on stilts," laconically observing at the same time: "We publish this as the joke of the season."

solutely necessary in the interest of the slave-holders.<sup>1</sup> How fragile must have been the bonds which held the Union together, when Georgia, on this programme, received in the north as well as in the south, the honorable appellation of the Union state! To what an extent must the knowledge that the absolute sovereignty of the law is the fundamental condition of political existence have already disappeared, to permit people to look upon such declarations as an absolute guaranty of the compromise!

In the north, matters developed in an entirely analogous way. Webster, writing from Boston, on the 5th of November, informed the president, that a great revolution in public opinion had taken place there, since the adjournment of congress. He even assured him that no resistance was any longer to be feared in the case of the arrest of fugitive slaves.<sup>2</sup> No small excitement, indeed, prevailed among the colored people who were personally in

<sup>1</sup> "Fourth, that the state of Georgia, in the judgment of this convention, will and ought to resist, even (as a last resort) to a disruption of every tie which binds her to the Union, any future act of congress abolishing slavery in the District of Columbia, without the consent and petition of the slave-holders thereof, or any act abolishing slavery in places within the slave-holding states, purchased by the United States for the erection of forts, magazines, arsenals, dock-yards, navy-yards, and other like purposes; or in (?) any act suppressing the slave-trade between slave-holding states; or in any refusal to admit as a state any territory applying, because of the existence of slavery therein; or in any act prohibiting the introduction of slaves into the territories of Utah and New Mexico; or in any act repealing or materially modifying the laws now in force for the recovery of fugitive slaves."

<sup>2</sup> "On public subjects things are here becoming quiet. The excitement caused by the Fugitive Slave Law is fast subsiding, and it is thought that there is now no probability of any resistance, if a fugitive should be arrested. Thousands of young men have tendered their services to the marshal at a moment's warning. There is an evident and a vast change of public opinion in this quarter since the adjournment of congress." *Priv. Corresp.*, II., p. 400.



danger;<sup>1</sup> but an apparent apathy seemed to have taken possession of the rest of the population, an apathy which contrasted strangely with the excitement over the Fugitive Slave Law. But it was a debatable question, whether this condition of minds was to be regarded as the resignation of submission to the law, or whether the moral indignation of the north had really exhausted itself entirely, in fruitless speeches and newspaper articles. The organs of the more decided opponents of slavery claimed that this apparent indifference sprang rather from the firm conviction that the detested law was to remain a dead letter, in consequence of the unanimous resistance of the population of the northern states.<sup>2</sup> This expectation proved to be altogether too great, although the slave hunters did their best to shake the north out of its moral torpor, one into which

<sup>1</sup> The *Washington Union* writes: "A great excitement has sprung up among the blacks at the north, relative to the operation of the fugitive-slave bill, especially as it is well known that hundreds of owners of fugitives are now scouring the north in search of their property. Many owners know of the whereabouts of their slaves, having met them in their travels, and are perfecting their arrangements for securing them." The *N. Y. Tribune*, Oct. 5, 1850.

<sup>2</sup> "The real secret of the seeming carelessness about this law is the perfect and fixed conviction that it never can be executed; that it will remain upon the statute book, a law only in letter and form. This conviction is a just one. The law cannot be executed. . . . And we certainly know that we speak the deliberate judgment, and the deep and ineradicable feeling, of multitudes at the north—who have no sympathy whatever with Mr. Garrison and his followers, who have been a long time repelled from the anti-slavery cause by their connection with it—when we say that they would rather, a hundred times, see the Union dissolved than this law executed, . . . sooner than have the streets of our cities made a hunting-ground for the slaver, and the villages on our northern hills laid open to the trader in human beings, that he may tear from them the men and the women who have made themselves homes there—the south might begin its secession to-morrow. In a Union for such robbery we will have no part." The *Independent*, Oct. 3, 1850, p. 162.

even those were in danger of falling who, during the struggle, would agree to no compact with their convictions and principles. The first cases in which the law was to be carried out, fully verified all that its most passionate opponents had prophesied of its unavoidable working.<sup>1</sup> The case of Adam Gibson created great excitement. On the 21st of December, a negro of that name was arrested in the streets of Philadelphia, without a warrant, and, on the lying statement that he had stolen chickens, was carried in chains before a commissioner. The latter refused to wait for the arrival of important witnesses, and ordered Gibson to be carried directly to Maryland, although two unimpeachable citizens had sworn that the accused was not the slave, Emery Rice, they were looking for, but a free man. Without being allowed to take leave of even his wife and children, Gibson was transferred to Maryland and not, as it remarked, to go before a Maryland court: he was sent immediately to his presumed owner who was honorable enough to declare that the slave hunters had made a mistake in the person.<sup>2</sup>

To place such doings as this on the same level with the unjust application of other laws which can never be completely avoided, was a poor beginning. They were the legitimate consequences of the monstrous provisions of the law; and, moreover, the illegal handing over of a

<sup>1</sup> Horace Mann claimed that of the first eight who fell victims to the law, four were free men. Congr. Globe, 1st Sess., 32d Congr., Append., p. 1077.

<sup>2</sup> See the full account in the *New York Tribune*, Dec. 25, 1850, and in Jay, letter to Samuel A. Eliot, Misc. Writ., pp. 598-600. When the matter was discussed in the senate, Clemens of Alabama, claimed that Gibson was a slave who simply had not fallen into the hands of his rightful owner. Congr. Globe, 2d Sess., 31st Congr., App., p. 304. This presumably was merely a distortion of what was granted by the opposite side, that he was a freedman.



human being and his yet unborn children and his children's children, to slavery, was a wrong to which no other iniquity can be compared. Such cases could not be hushed up, and every attempt to prove that the north was bound morally and constitutionally to co-operate in the passage of a law which had such consequences must have aroused deep indignation at such a doctrine. The majority might take their stand on the ground of positive law as stubbornly as they liked; the enforcement of the law could not fail to shake their position, because—even leaving the constitutional obligation out of the question—they themselves denied it all ethical basis. Hence, to say nothing whatever of the going beyond the real intention of the legislature, by individuals, or of the determination of the north, based on moral and political reasons, the compromise of 1850 could not but gradually lose all moral foundation. As in the third decade of this century, the universal hunting of abolitionists deceived people as to the real condition of affairs, the attitude of the majority might now deceive them, for a while, but it could, in no wise, change this fact, because it was a direct consequence springing from the very nature of things.

The compromise party did not hide this truth from themselves entirely. They felt, at least, that the decision made in Washington was not the last word in the controversy. "Union meetings" were still the order of the day,<sup>1</sup> and greater efforts than ever were made to form a Union Party. Hence, people looked upon the strengthening of the Union as the chief task of home politics in the near future; for the "conservative" elements of both national parties united, to the postponement of all differ-

<sup>1</sup> Spite of the victory already obtained, Webster, in the letter referred to above, speaks in an emphatically approving manner of the fact that there was an intention of holding such a meeting in Boston.

ences, on this ground for common action. A merchants' meeting, held in Castle Garden, New York, appointed a committee of fifty members, a Union Safety Committee, which worked with great energy for the Union ticket, with Horatio Seymour at its head as candidate for governor. These rich gentlemen thought themselves entirely sure of victory,<sup>1</sup> and the Whigs, without allowing their own courage to fail, granted that they had not worked in vain in the city. The *Tribune* assured the country districts, that the defection would not, by any means, come up to the expectations of the followers of King Cotton, and that the loss would be made up in part by adopted citizens who otherwise were wont to go with the Democrats. Washington Hunt, the Whig candidate for governor, was in fact elected, although by a majority of only 258 votes. In the legislature, on the other hand, the Whigs had an overwhelming majority,<sup>2</sup> which was all the more important as it had now to elect a United States senator. D. S. Dickinson, the sincere and influential partisan of the south, was obliged to make place for Hamilton Fish, who, indeed, was neither a radical nor a man of national reputation, but who was a reliable opponent of the slavocracy. It was, therefore, clear that in the most powerful state of the Union the spirit of opposition was not by any means broken, and New York, evidently, did not stand alone. The opponents of slavery had no need to learn from the Union Party, that differences of opinion on other political questions did not prevent the formation

<sup>1</sup> "Finding their views generally concurred in by the class with whom they associate—those who congregate in bank parlors, insurance offices, the heavy shippers, importers, most of the jobbers, etc.,—they think the city is to be carried with a rush by the cotton operators." The N. Y. *Tribune*, Nov. 2, 1850.

<sup>2</sup> Eighty-eight Whigs, forty-four opposition, two Independents.



of coalitions in regard to slavery; and even now, it could not be ignored, that they had good prospects of achieving soon still greater successes than they had met with in the past. Hence the more radical elements of the south expressed themselves in no very flattering way on the endeavors of the Union savers of the north, and on the results they had obtained. They were reproached with acting entirely from selfishness, and the lamentations over the alleged fruitlessness of their endeavors were spiced with scarcely concealed scorn.<sup>1</sup>

So far as any opinion could be formed, during the vacation of congress, on the further development of things, it was certainly probable that, in the north as well as in the south, the near future undoubtedly would belong to the compromise party. But, at the same time, facts had incontrovertibly proved what had been so frequently and so emphatically claimed by the left wing of both camps, during the struggle, viz., that the final object of the compromise, the lasting restoration of peace between the two geographical sections of the country, had not been at-

<sup>1</sup> Thus the Erskine *Miscellany* (Abbeville District, S. Car.) writes: "The talk of secession in the south touches the northern merchants in that most sensitive place, the pockets. Hence all the recent demonstrations which have been gotten up in the north in favor of the Union were the offspring of commercial influence. Commercial papers, and they only, oppose agitation, and cities dependent on their direct trade with the south for much of their prosperity, hold Union meetings, and vote conciliatory resolutions. But the influence is not such as the movers contemplate, the agitation is not ceased, and the country is not quieted. Few votes are commanded by this interest. Thus, while New York City was speechifying and resolving for the compromise, Seward and his agents accomplished their purposes, and the senator elected in the place of Dickinson will act in unison with the expounder of higher-lawism. Mann's triumph in Massachusetts is another proof of the impotency of the commercial interest to contend with the anti-slavery faction." *The Independent*, March 27, 1851, p. 52.

tained; in both sections the agitation continued, and in both sections the passion and embitterment of those who were true to, and earnest in, their convictions had increased. The only open questions were: How great the preponderance of the middle parties would be, and How long they would hold the power in their hands. The answers which facts gave to these questions were, for the most part, misunderstood, and hence it was a matter of terrible surprise that the signal for the breaking out anew of the general war came from the midst of the compromise party itself.

The second session of the 31st Congress presented a glaring contrast to the first by the comparative quiet which prevailed in it, in regard to the slavery question. It could not escape any one who, without a previously formed opinion, observed attentively and examined searchingly, that this calm was artificial and deceptive. In the very earliest days of the session, Giddings found an opportunity to open his heart completely on the Fugitive Slave Law. The execution of such a law he declared was worse than ordinary murder; the freemen of Ohio would rather die than debase themselves to such an extent as to lend a hand in carrying out that law.<sup>1</sup> So long as, in the legislative body of a state, such views could be expressed

<sup>1</sup> "To capture a slave and send him to the south to die under a torture of five years, is far more criminal than ordinary murder. . . . The freemen of Ohio will never turn out to chase the panting fugitive. They will never be metamorphosed into blood-hounds, to track him to his hiding-place, and seize and drag him out, and deliver him to his tormentors. Rely upon it, they will die first. They may be shot down; the cannon and bayonet and sword may do their work upon them; they may drown the fugitives in their blood, but never will they stoop to such degradation.

"Let no man tell me there is no higher law than this fugitive bill. We feel there is a law of right, of justice, of freedom, implanted in the breast of every intelligent human being, that bids him look with



about a law, on the universal and conscientious observance of which one geographical half of the country declared its continued existence to depend, the establishment of lasting peace was a foolish illusion. It could, therefore, surprise no one to hear Clay, the principal author of the compromise, a few days later, simply express the hope that the apparent calm which reigned on the surface of public affairs might be a real one, and that the deliberations of congress, during this session, might not be disturbed.<sup>1</sup> Four weeks later, he was reproached with having fanned the slumbering embers anew himself. The motion (January 20, 1851) to consider whether the participation of American ships and seamen in the African slave trade could be effectually prevented, had certainly no direct relation to the sectional quarrel, and it was very intelligible that nothing was farther removed from Clay's mind than the intention to stir up a discussion on the slavery question in general. But if the accusation was too severe, it was not entirely unfounded. Every mention of slavery, no matter in what connection, broke the seal with which the charmed compromise had closed the vessel in which the spirit of contention had been forever confined.

At first glance, there is a touch of the humorous in this incident. But the bitter truth which lay in the accusation, apparently so far-fetched, against Clay, was made plainly manifest by a significant demonstration which followed on the heels of that motion. On the 22nd of January, 1851, forty-four members of congress surprised the people with a manifesto, which stands alone in the history of the United States.<sup>2</sup> It was composed by Alexander

scorn upon this libel on all that is called law." Congr. Globe, 2d Sess., 31st Congr., p. 15.

<sup>1</sup> Ibid, p. 114.

<sup>2</sup> The whole document is to be found in Colton's *The Last Seven*

H. Stephens, and at the head of the subscribers to it stood Henry Clay—two men who had hitherto viewed the slavery question from standpoints essentially different, although even Stephens had dropped into the tone and mode of agitation of the Fire Eaters only transitorily. This fact alone would have called attention to the document, which, without exaggeration, may be called a real pronunciamiento. The gentlemen who subscribed it laid a solemn anathema on the renewal at any time of the sectional quarrel, and endeavored to make that anathema effective by the declaration that they would not support a candidate for the presidency, vice-presidency, for either house of congress or of a state legislature, of whom it was not known, that he condemned all disturbance of the compromise and the further agitation of the slavery question in any form.

The value of the compromise must have been very doubtful when its most distinguished authors and most influential friends considered it necessary to secure its observance by such pressure. If the compromise was not in reality a piece of arbitration in which opposing views and interests received the best award allowable under the circumstances, of what use could it be in the long run, even if the compromise party, based on the want of quiet felt by the people, were for the moment able to master all resistance? Although these members of congress had the same legal right as all other citizens to express whatever political views they liked, and to act as they pleased, in regard to the support of candidates for political office, the manifesto of the 22nd of January plainly announced a return to the old gag policy; only it went a long step

Years of the Life of Henry Clay, pp. 204, 205. For the list of names of the subscribers, see Congr. Globe, 1st Sess., 32nd Congr., 2nd. Sess., p. 453.



farther in the direction of the efforts of Pinckney, Ather-ton and others. The latter had wished only to banish the slavery question from the house of representatives, while now, the whole people were to be compelled by the politi-cians to recognize the wisdom of the measures of the 31st Congress in reference to slavery as an introvertible and unassailable dogma, and with this foothold to proclaim the further article of faith, that the slavery question, as a political problem, had, for the present and for all time to come, ceased to exist. Had the signers of the manifesto any reason to believe that they would have better suc-cess than their predecessors with that much more modest attempt at a policy of compulsion? The "gag rules" which, thanks to the stubborn resistance of Adams, had played a part in the history of the slavery question so disastrous to the slavocracy, were at least formally valid acts of the house of representatives. The manifesto of the 22nd of January, on the contrary, was devoid of all formal authority, and was the work of only a small minor-ity of all the members of congress. Moreover, this small minority had come together only for this definite purpose, and it was, by no means, composed of the representatives of the different political groups, in equal parts. Cobb was the only representative of the southern states whose name was to be found on the list. But above all, the compromise was not the work of any one party. The majorities for its several parts were formed from very dif-ferent elements. The party which was scarcely repre-sented at all among the subscribers to the declaration, looked upon the Fugitive Slave Law as the most valuable part of the compromise; and of all the senators from the northern states only Dodge and Jones, of Indiana, and Sturgeon, of Pennsylvania, had voted for that law.<sup>1</sup> And

<sup>1</sup> Dickinson, in accordance with custom, abstained from voting

in the house, of the representatives of the northern states, only twenty-eight of the fifty Democrats, and three of the seventy-six Whigs had voted for the bill. But if the compromise had not been entered into even by a compact majority, it was a very bold hope that a veto, however peremptory and from whomsoever it might proceed, could permanently prevent all tinkering with any part of the compromise. The undertaking was all the more daring as the signers of the declaration had worded their prohibition in a manner which must have made it appear to the opponents of slavery as the boldest defiance. The repeal or alteration of the compromise laws was prohibited only so long as such alteration or repeal was not necessary, in the unanimous opinion of the friends of the compromise, for the removal of certain evils which might arise in the course of time. Under the prevailing circumstances this meant simply, that the slave states were to be spared the trouble and dangers of a further struggle for the maintenance of what they had hitherto won, but that they might themselves demand alterations in the law, as soon as they had rendered their following in the northern states pliant enough to make further demands upon them.

That this would not last long, was shown by a bill introduced by Bright of Indiana into the senate, on the 10th of February, which explained the Fugitive Slave Law to the effect, that the old act of 1793 had likewise remained in force.<sup>1</sup> This was a further aggravation of the brutal provisions of the law, but the bill was, notwithstanding, very willingly referred to the judiciary committee for examination, while

because his colleague and opponent, Seward, was obliged to be absent on account of sickness, and Douglas was prevented by an instruction from the legislature of Illinois from standing, with his vote, by his southern friends on this question.

<sup>1</sup> Congr. Globe, 2d Sess., 31st Congr., p. 492.



a petition for the repeal or modification of the law, of which the same disposition had been made in the beginning, was, after reconsideration of the first vote, laid on the table.

From the north came a very prompt and very plain answer to the question, what people, in certain circles there, thought of the attempt, in this way, to elevate the eternity and immutability of the compromise to the dignity of a national dogma. The execution of the Fugitive Slave Law had already repeatedly met with violent resistance which naturally led to loud remonstrances, on the part of the south. These remonstrances were, indeed, rejected by Clay as unfounded. He adduced as a proof of the laudable loyalty of the north, the fact that in New Albany, Indiana, it had been possible to effect the extradition of fugitives who were as white as himself or as the presiding senator. How terribly must slavery have corrupted both the sentiments and the reason, when, even Henry Clay, could turn the attention of the world to this fact, with pride and satisfaction, in a public session of the senate, to a fact which even the meanest of Americans, with normal human instincts, should have sought to hide, out of consideration for the honor of his country! Clay might well have omitted to refer to this case, as its history had that in it which the south could not wish to be closely examined. Chase contended that the persons in question had not a drop of negro blood in them,<sup>1</sup> and called attention to the fact that on the soil of a southern state, at Hawesville, in Kentucky, their booty had been rescued from the slave hunters; and this was the first time that in such a way protest had been entered against the law. The extradition of a slave had, indeed, been effected at

<sup>1</sup>He admitted only the possibility of a small admixture of Indian blood.

New Albany, but the case had provoked such excitement and indignation, that in a short time, the means to purchase the freedom of the unfortunate victims was procured.<sup>1</sup> It was, indeed, justifiable to see a proof of surprising loyalty in this example, but the slave states could scarcely be satisfied with that kind of a protest against the law. The desire to make a law against which the moral convictions of a great part of the people rebelled so powerfully that large sums were voluntarily subscribed to annul its effects, the desire to make such a law, for all future time, a corner stone of the foundation of the Union, was a monstrosity. It was self-evident that the opponents of the law would not always and everywhere manifest such loyalty as the citizens of New Albany had shown.

On the 15th of February, at Boston, a fugitive slave by the name of Shadrach, while the question of his extradition was being discussed before a commissioner, was violently set at liberty by a crowd of negroes, who had been incited to this bold stroke by one of the lawyers of the defendant. Shadrach was happily landed over the Canadian border. The excitement which this event caused in the political circles of Washington was so great that a stranger might have believed that the republic had met with a great national misfortune. Clay immediately (February 17) introduced a resolution into the senate, which asked the president for more minute information and desired to know what measures he had taken, and whether, in his opinion, still other laws were necessary for the more effective enforcement of those already in existence.<sup>2</sup> Fillmore fully came up to the expectations which his course during the compromise struggle had raised in the south. On the 18th of February, there ap-

<sup>1</sup> Congr. Globe, 2nd Sess., 31st Congr., Append., p. 509.

<sup>2</sup> Congr. Globe, 2nd Sess., 31st Congr., p. 580.



peared a proclamation which commanded all civil and military officers, and called upon all well-minded citizens to flock to the protection of the laws of the land, and to contribute to their enforcement by all the means within their reach.<sup>1</sup> The army and navy department issued corresponding instructions at the same time. On the next day, the proclamation was followed by a long-winded message to congress which culminated in the solemn assurance, that the president would use all his constitutional powers to the fullest extent, in order to insure the execution of the laws. The promise was certainly honestly intended, for the president went so far as to recommend, that the calling out of the state militia, for the suppression of insurrections, might be made easier to him.

The president was evidently acting in full agreement with the secretary of state. In a letter dated February 20,<sup>2</sup> Webster called the liberation of Shadrach "high treason," and he afterwards frequently and emphatically pledged his reputation as a jurist for the correctness of his view. He might, perhaps, prove that such was the case, according to the letter of the constitution and the laws, to hair-splitting lawyers, but he would scarcely have been able to convince an unprejudiced jury of it. No power of speech and no dialectic acumen could make healthy common sense see a beam in the mote. The president and the secretary of state themselves bore testimony to the fact that they made a mountain out of a mole hill. Webster unquestionably misunderstood the tone of public opinion when he believed, or said he believed, that the cheeks of nineteen-twentieths of the population of Boston would burn with shame and their hearts be filled

<sup>1</sup> Statesmen's Manual, III., p. 1919.

<sup>2</sup> To the New York committee on the celebration of the birthday of Washington. Works, VI, p. 589.

with indignation at these contemptible monstrosities. But although the number of those who favored the Fugitive Slave Law in Massachusetts was not large, he and his chief were right when they assured the country, that even in that state public opinion would disapprove a revolt against the law in this form.<sup>1</sup> Webster's prophecy that the municipal authorities would give expression to this feeling, in an official manner, came true. But if the "vast majority" of the people of Boston and of all Massachusetts, spite of their hatred of the Fugitive Slave Law, desired its loyal enforcement, so long as it was a law, why could it not have been left to the local authorities to cause it to be respected? Because the latter had been surprised by a little crowd of negroes, why should the great Webster, with his stentorian voice, raise the alarm cry of "high treason," and the president announce to the country, that he held

<sup>1</sup> "It would be melancholy, indeed, if we were obliged to regard this outbreak against the constitutional and legal authority of the government as proceeding from the general feeling of the people, in a spot which is proverbially called 'the Cradle of American Liberty.'

"Such, undoubtedly, is not the fact. It violates without question, the general sentiment of the people of Boston, and of a vast majority of the whole people of Massachusetts, as much as it violates the law, defies the authority of the government, and disgraces those concerned in it, their aiders and abettors." Fillmore, in the *Tribune* of the 20th of February.

"Depend upon it, that, if the people of that city had been informed of any such purpose or design as was carried into effect in the courthouse in Boston, on Saturday last, they would have rushed to the spot, and crushed such a nefarious project into the dust. The vast majority of the people of Boston must necessarily suffer in their feelings, but ought not to suffer at all in their character or reputation for loyalty to the constitution, from the acts of such persons as composed the mob. I venture to say, that when you hear of them next, you will learn that, personally and collectively, as individually, and also as represented in the city councils, they will give full evidence of their fixed purpose to wipe away, and obliterate to the full extent of their power, this foul blot on the good name of their city." Webster, I. c.

the whole armed force of the land in readiness for any emergency? Who had raised a similar cry or heard of such measures when Georgia, in its Indian disturbances, trampled the laws of the United States and the decrees of the supreme court of the United States, under foot, or when South Carolina with bold contempt for his constitutional rights, expelled from its territory the commissioner of Massachusetts? Was Hale entirely without reason when he claimed that Fillmore had made himself ridiculous by his proclamation? Or if it was thought that the expression should be objected to because wanting in respect, was it not necessary to grant Senator Davis, of Massachusetts, that the proclamation was, at least, an over-hasty measure?

The answer to this question is given in the declaration of Clemens, of Alabama, that Davis's criticism would be proper if the question was one of an ordinary crime, murder, for instance.<sup>1</sup> It did not bring the blush of shame to the cheeks of nineteen-twentieths of the American people, to hear murder called a trifle, in the senate, in comparison with the liberation of a fugitive slave. And yet Clemens was not so very wrong; for the liberation of a fugitive slave was a political event, and hence should not be judged like a matter of every day occurrence. Fillmore could not, and it was his duty not to, regard Shadrach's liberation as akin to the case in which a prisoner, for merely personal reasons, is taken by force from the hands of the federal authorities by a mob. And just as little should he now allow his action or non-action to be determined by general humane and ethical considerations, how great soever might have been their weight with him when the Fugitive Slave Law was put before him for his

<sup>1</sup> Congr. Globe, 3d Sess., 31st Congr., App., p. 305.



signature. He stood in presence of a law, and the constitution makes the execution of the laws the sworn duty of the president, without giving him the least discretion, on the basis of his own personal opinion, as to their worth or worthlessness. Hence, Fillmore, from a moral point of view, and so far as the question of principle was concerned, was sufficiently protected against the severe reproaches which were, of course, not wanting. But, he was not, on this account, to be absolved of all blame. Still less did he deserve the exaggerated praise which he received from the other side. There was no legal necessity to announce to the people, amid threats and alarm, because of a handful of colored law-breakers in Boston, that the government had the whole force of the country in readiness to enforce obedience to the law; and, from a political point of view, to do so was a very great mistake. If the army and navy were necessary to insure the observance of the compromise, it was not worth the paper on which it was written; if, on the other hand, public opinion was such that the observance of the law could be compelled by the usual means, the threatening of law-breakers with the army and navy would naturally create wide-spread dissatisfaction, and drive a large part of the more moderate elements over to those in whose eyes the whole compromise was an abomination.

The pretensions and assumption of the south were encouraged, in a very unwise way, by the fact that, by such a manner of treating the matter, people seemed to recognize that it was entitled to hold the whole north responsible for every violation of the compromise, which could properly be laid at the door of only a few individuals. The proclamation and the message placed the compromise in a far more glaring light than the liberation of Shadrach. When the president and his secretary of state were



severely reproached, that their too energetic endeavors to bury the slavery question in the compromise had only stirred up agitation anew, the reproof was not altogether unfounded.

It was noteworthy that the real compromise party in the south gave Fillmore the greatest praise. The gratitude which he reaped from the extremes was very cool, not because they desired a more radical procedure on his part, but because, judging the great general question rightly, they were of opinion that he spent his force without aim or object, beating the air. On the same day that Clay introduced his resolution, Butler, of South Carolina, declared that it was entirely indifferent how the senate treated the anti-slavery petitions, since it was impossible to suppress the agitation.<sup>1</sup> And his colleague, Rhett, renewed the old complaint, that only the mercantile interest of New York and Pennsylvania was in favor of the compromise and the honest enforcement of the Fugitive Slave Law.<sup>2</sup> On the 21st of February, Mason complained that even if no violent resistance were attempted, the law did not help the south to its rights, since bad will threw all kinds of difficulties in the way of proprietors reclaiming their slaves, by judicial proceedings, the costs of which amounted to the full value of the fugitive slave.<sup>3</sup> Rhett and Berrien agreed with him, but the majority of the senators from the southern states, who had participated in the long debates, thought with Clay that the law fulfilled its end, and that a change for the better, in the north, was unmistakable. Mason, however, persevered in his view, that the slave-holders would not have the necessary security until the north should cordially and from conviction

<sup>1</sup> Congr. Globe, 2d Sess., 31st Congr., p. 576.

<sup>2</sup> *Ib.*, p. 579.

<sup>3</sup> Congr. Globe, 2d Sess., 31st Congr., App., p. 295.

enforce the law.<sup>1</sup> Jefferson Davis said that that, spite of the assurances and warnings of Webster, would never happen, that the very history of the law proved this, since the northern majority had only allowed the southern minority to pass the law, and that the law was one which was to be executed in the north.<sup>2</sup> And Chase generalized this by asking how people could speak of a settlement, when every provision of the compromise affecting the section to which it seemed an onus, had been adopted.<sup>3</sup>

These complaints and remonstrances may have been too strong, but to become convinced that the compromise had not swept all the clouds from the political heavens, it was not necessary to question its opponents. Warmly as Clay had expressed himself on the good faith of the north, he thought the time had come to make use of the very significant clause in the declaration of the 22d of January. While he declared that the compromise had worked wonders, he, nevertheless, demanded that, in accordance with the wish expressed in the message of the 20th of February,

<sup>1</sup> "I do mean to say that if that law can ever be effectually enforced for the preservation of this property when it gets abroad, it must be enforced with alacrity, with zeal, with cordiality, as they would enforce a law of their own. It must be enforced in accordance with the desire of the people, where the law is to be administered, to carry it into execution. They must aid, and assist, and countenance, and encourage those who go there to recover their property, and must not throw all sorts of resistance, difficulties, and obstacles in their way."

<sup>2</sup> "Sir, the northern majority on that occasion, allowed the southern minority to pass the bill. The north did not pass it. They did not meet their obligations to the constitution and their faith to the Union. Seats were vacated, and the southern members were allowed to pass a law which had to be executed at the north. That is the history of the transaction. Was there, then, no reason to suppose that a law which could only be passed by a system of absenteeism, would be a failure?" *Congr. Globe*, 2d Sess., 31st Congr., App., p. 324.

<sup>3</sup> *Ib.*, p. 309.

power should be given to the president, without the antecedent proclamation required by the law of 1795, to call out the militia and to employ the army and navy, whenever he had reason to fear the liberation of a fugitive slave.<sup>1</sup> Such a law would, indeed, not have been a direct change of the stipulations of the compromise, but it would have sharpened the edge of the Fugitive Slave Law, in a manner which was certainly calculated, entirely independently of the slavery question, to give rise to serious reflections. Cases might perhaps be imagined in which the necessity of issuing a proclamation before calling out the armed power of the country, might be lamented on very weighty grounds of expediency. But to give the president the right, without any more ado, to interfere with the sword, in the case of every fugitive slave, only because he feared the liberation of such slave, was in strange contrast with the spirit which pervaded the rest of the legislation of the democratic republic. If such a grant of power was necessary, the compromise was a great failure; if it was not necessary those who demanded it turned their arms against themselves, while they branded all agitation as a grave sin against the fatherland. Horace Mann was right in saying that despite all the outcry against agitation, the agitation in favor of slavery was now carried on more zealously than ever the agitation against it had been,<sup>2</sup> and the participants in the outcry from the southern states, were to be found in the foremost ranks of the agitators.

The president's message, in accordance with Clay's wish, was referred to the judiciary committee, but this committee reported, on the last day of the session, that no further laws were required. The excited tone of certain orators

<sup>1</sup> *Ib.* pp. 322, 323.

<sup>2</sup> *Ib.* p. 293.



had awakened no sympathetic note either in the Capitol or in the country. The 31st Congress dissolved without any positive result, from its debates, on the slavery question, during its second session. It would be very mistaken to think that the population of the two sections became more friendly to the concrete contents of the compromise, the longer they were acquainted with them; only the excitement and embitterment over it wore away with time. The sole thing that continually grew, both in the north and the south, was satisfaction with the relative calm which the people enjoyed. We have seen that the excitement had gone beyond its culmination point, long before the conclusion of the compromise. Hence the endeavors of the radicals, immediately after it had been entered into, to aggravate the sharpness of the contest, had from the very beginning no prospect of success. The fact that they now, after the session of congress had taken such a course, tried to force a decision, could serve only to make it plain, how small a minority of the people they were.

In a letter of the 29th of March, 1851, to J. S. Preston of South Carolina, Quitman expressed the view, that the south had to choose between the Union and slavery; but he added, not without sorrow, that only Mississippi and South Carolina were willing to draw the ultimate consequences of their convictions; even Mississippi was not yet entirely prepared for the last step, but would undoubtedly follow South Carolina.<sup>1</sup> It has been already mentioned

<sup>1</sup> "I concur with you in the opinion that the political equality of the slaveholding states is incompatible with the present confederation as construed and acted on by the majority. . . . In the cotton states such sentiments prevail and are growing; but there are some indications of their existence in Maryland, Virginia, North Carolina, Tennessee, Kentucky, and Missouri, and although, to some extent, avowed in Texas and Louisiana, they are frowned down by most of their public men as treasonable and revolutionary. There is, then

that South Carolina, for weighty reasons of expediency, desired to decline the honor of leadership, and endeavored to have Mississippi accept the same. But, as even Quitman was obliged to confess that Mississippi was not equal to the task, the Palmetto state resolved to take the first step. The Southern Rights Association of the state held a convention in Charleston in the beginning of May, which assumed a very haughty tone. The resolutions offered by Gregg, in the name of a committee of twenty-one members, began with the declaration, that South Carolina could not submit to the injustice it experienced from the federal government, and this whether it could count on the co-operation of the other southern states or not.<sup>1</sup> An address directed to societies of the same name, in the other slave states, gave a more detailed explanation of this announcement.<sup>2</sup> The convention assured the people that

no present hope that a majority of the slaveholding states will unite in any effective measures for curing the evils . . . While it is true that in some of the states, particularly Alabama, Florida, and Louisiana, much discontent with the late action of congress prevails, and the spirit of resistance is extending itself among the people, yet nowhere, except in South Carolina and Mississippi, is it proposed to act authoritatively on these questions. To those two states, alone, then, can we look to any efficient action. The latter is not yet fully prepared for final action; she has less capital, is younger and weaker than the former, and has no sea-port. The former should, then, take the lead, and fearlessly and confidently act for herself. . . . Mississippi would, I feel assured, take position by her side, and soon all the adjoining states would follow her example." Claiborne, *Life and Correspondence of J. A. Quitman*, II., pp. 125, 126.

<sup>1</sup> "Resolved, That in the opinion of this meeting the state of South Carolina cannot submit to the wrongs and aggressions which have been perpetrated by the federal government and the northern states, without dishonor and ruin; and that it is necessary for her to relieve herself therefrom, whether with or without the co-operation of other southern states."

<sup>2</sup> The resolutions and the address are printed entire in the *N. Y. Tribune* of the 13th of May, 1851.



South Carolina was still ready to take any way on which, without a disruption of the Union, a remedy could be found for the just grievances of the south, provided one of the other states could discover such a way. But if no such way could be found, South Carolina could not harbor the hope that further violence would aggravate the spirit of resistance in the rest of the slave states; and hence the state would be obliged, at all risks, to do that which its honor and its vital interests imperatively demanded.

The convention enthusiastically approved the views of its committee, although the most prominent politicians of the state, like Butler, Barnwell and Orr, expected only disaster from South Carolina's separate action.<sup>1</sup> There was no doubt, that the carrying out of the threat would be exceedingly disagreeable to the other slave states. When the state legislature had passed a law providing for the nomination of delegates to a congress of southern states, which was to take the initiatory steps towards the secession in common of the slave states, in case they could obtain their rights in no other way,<sup>2</sup> Virginia decidedly declined all participation in any steps which endangered the integrity of the Union and emphatically warned South Carolina to desist from all thoughts of secession. But Virginia defended its views by the consideration that harmony and confidence would be restored by the compromise of 1850. The right of South Carolina to secede was not

<sup>1</sup> Ex-Governor Seabrook speaks in a letter of the 9th of June, 1851, to Quitman of their "settled conviction of the extreme danger of secession by South Carolina alone." Claiborne, *Life and Correspondence of J. A. Quitman*, II., p. 140.

<sup>2</sup> "To be instructed with full power and authority to deliberate with the view and intention of arresting further aggression, and, if possible, of restoring the constitutional rights of the south, and, if not, to recommend due provision for their future safety and independence." De Bow, *Commercial Review*, XXIX., p. 754.

at all questioned. But the Charleston convention was convinced that if South Carolina should follow its resolutions, the further actual development of the affair would depend on the attitude of the other slave states to the question of law and not on whether they approved its course. The address gave expression to the expectation that the federal government would endeavor to force the state back into the Union; but that then the other slave states would be obliged either to oppose this, or to bend their own necks under the yoke of despotism.<sup>1</sup> At the same time, it was maintained that the responsibility for this compulsion should not be laid at the door of South Carolina; the blame would lie entirely with the federal government.<sup>2</sup>

<sup>1</sup> "Accustomed as we have been to violations of the constitution, and of the rights of the southern states, by the federal government, we have to look forward to the probability of another outrage by that government, in the attempt to force the state to remain in the Union. We suppose the attempt will be made, if the other southern states permit it. Those states must decide for themselves whether they will permit it. South Carolina must decide for herself whether it is necessary to secede. Her sister states of the south will have no right to complain that she forces them into a position where they must either interpose to prevent her subjugation, or by consenting to it, abandon their sovereignty, and lay themselves at the mercy of a despotic power."

<sup>2</sup> "In seceding alone, South Carolina would be placing her sister states of the south under no constraint," for, "if they should find themselves in a position of constraint, it would come from the action of the federal government, not of South Carolina."

In the *Independent* of the 9th of May, we find in a communication from Charleston: "Secession, immediate or remote, was the burden of every speech and every resolution. Of one thing there can be no question, that is the feeling of a large portion of South Carolina. If they differ at all, it is as to separate or combined action; and judging from the temper of the convention just adjourned, they are disposed to go it alone and blindfolded, as it seems to me."

"In private circles they discuss the matter coolly and calmly, talk of secession as the easiest, most feasible, and least objectionable matter in the world. Their plan they say is this: to declare South Carolina



Governor Means now considered the realization of his hopes as fully secured. On the 12th of May, he wrote to Quitman that the next legislature would undoubtedly call a convention, and that when this convention met, the state

an independent state, and Charleston a free port. The general government will blockade the port, and that will bring about a collision between the state and government authorities, the result of which will be to unite the sympathies of the south with South Carolina, and produce a general war between the slave and non-slaveholding states.

'Blood' and 'the issues of battle' are the household words of such as composed the very large portion of that convention, numbering over five hundred men, and among them their Senator Butler, representatives in congress, members of legislatures, etc., etc.

You will also see by the remarks of Butler, Hayne, Barnwell and such as dared to make a show of stemming the tide, that they took especial good care to pledge themselves to South Carolina whether she did one thing or the other, upon that robber principle, 'my State, right or wrong.' The *Independent*, May 22, 1851, p. 85. Ten years later it became manifest how correctly the fire eater of South Carolina had calculated.

M. R. H. Garnett, member of the Virginia convention for the amendment of the state constitution, writes, on the 3rd of May, 1851, to Wm. H. Trescott of South Carolina, who became assistant secretary of state, under Buchanan: "I would be especially glad to be in Charleston next week, and witness your convention of delegates from Southern Rights Associations. . . . Momentous are the consequences which depend upon your action. Which party will prevail? the immediate secessionists, or those who are opposed to separate state action at this time? . . . If the general government allows you peaceably and freely to secede, neither Virginia nor any other southern state would, in my opinion, follow you at present. . . . If Charleston (in case of secession) did not grow quite so fast in her trade with other states, yet the relief from federal taxation would vastly stimulate your prosperity. If so, the prestige of the Union would be destroyed, and you would be the nucleus for a southern confederation at no distant day.

"But I do not doubt, from all I have been able to learn, that the federal government would use force, beginning with the form most embarrassing to you, and least calculated to excite sympathy—I mean a naval blockade. In that event, could you withstand the reaction feeling which the suffering commerce of Charleston would probably manifest? Would you not lose that in which your strength consists,

would secede.<sup>1</sup> Shrewd observers in the north, too, thought that the resistance of the cool, calculating business men would prove powerless.<sup>2</sup> But in a letter of the 9th of June to Quitman, Ex-Governor Seabrook confessed that the leaders in the convention were comparatively unknown people,<sup>3</sup> and stated that, in Charleston, the more moderate were beginning to venture forward.<sup>4</sup> He was, indeed, able to announce, on the 15th of July, that of thirty newspapers, only one in Charleston, and one in both Columbia and Greenville, were opposed to secession; but that was vain consolation.<sup>5</sup> Whether the influence of the business men was greater than had been supposed need not be here considered. Certain it was, in any event, that they did

the union of your people? I do not mean to imply an opinion. I only ask the question. If you could force this blockade, and bring the government to direct force, the feeling in Virginia would be very great. I trust in God it would bring her to your aid."

<sup>1</sup> Claiborne, *Life and Correspondence of J. A. Quitman*, II., p. 133. We also read in the correspondence of the *Independent*, referred to above: "That they will carry the state and compel the authorities to take the necessary steps to carry out the resolves of their convention, I have no doubt."

<sup>2</sup> "The business men of the state, and more particularly of Charleston, foresee in this action ruin, and would be glad to avert the evil, but they find themselves in a small minority, and their influence with the wordy politician but small." I. c. N. T. Grayson writes Feb. 17, 1851, from Charleston to N. F. Perry: "While the old, the grave, the prudent, stand apart, the fortunes of our state seem to be intrusted to young men, who appear to be governed more by vanity than any other principle, and who seem utterly incapable of forming an adequate opinion on the true nature and consequences of civil war." *Reminiscences of Public Men* by Ex-Gov. B. F. Perry, p. 287.

<sup>3</sup> "The leaders of the late convention are men comparatively unknown to the public. It cannot be said, therefore, that they have the confidence of the people." Claiborne, I. c. II., p. 140.

<sup>4</sup> "Opposition in different parts of the state begins to disclose itself. At present it is confined to Charleston and the villages where northern men are to be found in numbers." I. c.

<sup>5</sup> *Ib.* II., p. 143.



not deserve the greatest share of credit for the fact that the most radical were bitterly deceived. The mass of the population had, until now, kept much cooler than the politicians, who talked one another into a fever, and than the gentlemen of the press whom it cost only a few drops of ink to fight and win great battles. In his own South Carolina, was verified for the first time, the dying assertion of Calhoun, that the Union was held together much more firmly than people supposed, and that only in the course of a long period of time could one after another of its bonds be severed.<sup>1</sup> In the October election to the "Secession Congress," the radicals, to the surprise of every one, suffered a complete defeat.<sup>2</sup> Governor Means, in his message to the legislature, was obliged publicly to confess that all his endeavors to lead the state out of the Union had wholly failed.<sup>3</sup>

Quitman had no right to reproach his colleague and ally, with some oversight on his part as the cause of the unfortunate result of their common efforts. He had himself been defeated earlier, and the issue of the struggle in Mississippi may have been not entirely without influence on the decision in South Carolina. The secessionists had again put up their tried leaders as candidates for the governorship, and the Union party, likewise, chose their actual

<sup>1</sup> v. Holst, *Life of Calhoun*, pp. 341, 342.

<sup>2</sup> "The election in South Carolina for a Secession Congress has resulted, most unexpectedly to all parties, in the complete overthrow of the secessionists, after all their noise. It is stated that three-fourths of all the delegates are in favor of abiding in the Union for the present—which means forever." *The Independent*, Oct. 23, 1851, p. 175.

<sup>3</sup> "The noble attitude of resistance which I supposed the state was about to assume, and which I have directed all my energies to place her in, seems to have been delayed or abandoned, judging from the popular voice, as indicated by the result of the late elections." *N. Y. Tribune*, Dec. 2, 1851.



head, Henry S. Foote, as their official leader. The two candidates travelled the state together, and advocated their views before the voters. Quitman thus came to the conviction that his defeat was undoubted, and on that account, he willingly retired from the field, in the interest of the cause.<sup>1</sup> Jefferson Davis took his place. This new candidacy indicates a decided change of direction, for even if Davis would have nothing to do with the compromise of 1850, and was a decided radical, he yet was not, like Quitman, an unconditional secessionist.<sup>2</sup> The stand Foote had taken was, on this account, a much more difficult one, but he finally won the victory, although by only the small majority of 999 votes.<sup>3</sup>

After this two-fold fiasco of the secessionists, it is to be presumed that a people even less disposed to optimism than the American, would have given themselves up to the sweet deception, that all danger was happily over.

<sup>1</sup> See his letter of resignation, dated Sept. 6, 1851, in Claiborne, II., pp. 146, 147.

<sup>2</sup> To a formal written question whether he was in favor of the dissolution of the Union, because of the compromise, he answered on the 19th of Nov. 1850: "If any have falsely and against the evidence before them, attempted to fix on me the charge of wishing to dissolve the Union, under existing circumstances, I am sure your information and intelligence have enabled you to detect the shallow fraud. If any have represented me as seeking to establish a southern confederacy, on the ruins of that which our revolutionary fathers bequeathed to us, my whole life and every sentiment I have ever uttered, in public or private, give them the lie.

"If any have supposed gratuitously, (they could not otherwise,) that my efforts in the senate were directed to the secession of Mississippi from the Union, their hearts must have been insensible to the obligations of honor and good faith, which I feel are imposed upon me by the position of an accredited agent from Mississippi to the federal government." *Congr. Globe*, 1st Sess., 32d Congr., Append., p. 171. As regards the last important point, Davis evidently thought otherwise, ten years later.

<sup>3</sup> Foote, *Bench and Bar of the South and Southwest*, p. 253.

When Webster, on the 22nd of December, 1850, numbered the intentions of the secessionists among the things of the past,<sup>1</sup> many may have asked themselves, in secret, whether he did not overestimate the moral power of the revolution in public opinion. Now, however, it was cheerfully admitted on all sides, that he had rightly read the signs of the times, and even the noisy contradiction of the secessionists ceased. Yet the circumstances of the time continued uninterruptedly to weave the warp of fate, thread by thread, and all parties worked diligently at the winding sheet of the Union, working their faults and passions into it with equal industry.

The cutting contempt with which the northern opponents on principle of the compromise expressed themselves on the bugbear of the secessionists,<sup>2</sup> lulled the middle parties into self-complacent security and thereby served the radicals of the southern states as a protecting roof in their

<sup>1</sup> "The time for meditated secession is past. Americans, north and south, will be hereafter more and more united. There is a sternness and severity in the public mind lately aroused. I believe that, north and south, there has been, in the last year, a renovation of public sentiment, an animated revival of the spirit of union, and, more than all, of attachment to the constitution, regarding it as indispensably necessary." Works, II., p. 527.

<sup>2</sup> "This 'ignis fatuus' of dissolution has for more than a year constituted the entire capital on which certain political leaders have traded. A greater humbug was never conceived or brought forth. The gigantic intellect of the secretary of state, aided by the political experience of certain distinguished senators and politicians, could alone have given birth to this 'splendid failure,' which if put forth by men in the more humble walks of life would have entitled them to lodgings in some lunatic asylum. There is but one mitigating consideration connected with it; that is the consistency with which the president and his cabinet are striving to keep up the deception. The late proclamation against the negroes at Boston constitutes a burlesque upon civil governments which is strictly in keeping with 'Union meetings,' and the cry of 'danger to the Union,' put forth in this house, in the senate and by the executive. The history of the times will



continued revolutionary labors, while it at the same time inflicted wounds on them which did not weaken but only burned and irritated them. Much more justified was the ridicule poured on the inconsistency of the compromise party, whose real political capital was always the imperilling of the Union, while they never tired of celebrating the complete triumph of their policy, in high-sounding words. If people had preserved to a greater extent the capacity to think clearly and calmly on this question, they could not but have recognized that, to a great many, the brilliant speeches of Webster in May and June, on his tour through New York and Virginia, were, after all, a sharp criticism of the compromise policy. In these much lauded speeches as in the proclamation and message of the president, provoked by the liberation of Shadrach, the compromise always appeared under the twofold form of a harbor in which no storm could possibly overtake the safely anchored ship and as a glass house from which the most scrupulous vigilance should keep all ill disposed and inconsiderate urchins at a distance. But this intrinsic contradiction in the reasoning of the compromise adherents, should have excited the care of the acute patriot and not his ridicule, for it was the best proof of the folly of the view that the imperilling of the Union was a silly invention. The rocks were certainly no less dangerous, because at the time the foam of the breakers did not dash over them, because a calm surface concealed them from the blunted vision.\* And the surface of this water was not so smooth but that even the most confident were ever reminded of the terrors which slumbered under them. The

show these things, in their true light, and place these disunion panics among the most extraordinary inventions of any age." Giddings, Feb. 26, 1851, in the house of representatives, Congr. Globe, 2d Sess., 32d Congr., p. 707.

Fugitive Slave Law itself never allowed this to be entirely forgotten. Webster did not need to refer to the Shadrach case, in order, on his triumphal tour, to open his heart fully to his wondering listeners and tell them that the law whose cheerful execution he had promised, was so grossly defied. And how, spite of the longing for peace, could his bitter reproaches, make a really powerful impression when even the most influential organ of the Fire Eaters called the law barbarous and a stupid blunder?<sup>1</sup> Since the experience of three years had wrung this admission from the *Charleston Mercury*, it was evident that the hope could not have been realized, that the north would become completely blunted to this barbarism. The majority might become more indifferent to individual outrages,<sup>2</sup> and even where people, in the first moment of excitement, inclined to open opposition, the view which held obedience to the law to be the first duty of a citizen, prevail;<sup>3</sup> but the minority was forced into a more and more

<sup>1</sup> The *Charleston Mercury* writes: "The south has gained nothing but a loss by this law." "It was a stupid blunder on the part of southern statesmen." "The value of the slave is eaten up if capture follow, while hatred to the institution abroad, and opposition to it at home, are increased by its hard features and the barbarous enforcement of them." The *Independent*, Oct. 27, 1853, p. 171.

<sup>2</sup> "See in Jay, letter to Samuel A. Eliot, Misc. Writings, pp. 595, 596, a case in which the author rightly says: "Utterly devilish as was this decision (of the commissioner), it was sound law."

<sup>3</sup> In the legislature of Massachusetts, the senate adopted a resolution which gave expression to the conviction, that the Fugitive Slave Law would sooner or later be a dead letter, but which at the same time declared that Massachusetts did not claim the right to nullify a federal law, to not respect it or to resist it with force. In the house, this resolution was laid on the table by a majority of only two votes, 167 to 165. The *Independent*, May 29, 1851, p. 90. While the Whig convention at Worcester, on the 1st of October, 1850, unanimously resolved that Massachusetts would continue to maintain its old point of view in relation to the extension of slave territory, and labor to



decided opposition; and if people judged not by the noise made alone, but measured the real value of the facts, it could not be ignored that it had gained ground. It no longer opposed, as it had done, a direct conflict with the federal authorities; it brought the Fugitive Slave Law less prominently into the foreground of its agitation, but it continued the general struggle against the slavocracy with greater political skill and better success. Its blind underestimation of the danger of secession,<sup>1</sup> had this one good effect, that it became much easier for it to reject the loyalty on conditions, as Seward expressed it, offered by the south, with decision.<sup>2</sup>

The senatorial elections, in Ohio and Massachusetts, proved that the minority was fully in earnest. Chase received, in Benjamin Wade, a colleague, who was just as firm and undaunted as he in his opposition to the pretensions of the slavocracy. True, he was not so richly gifted

the effect that New Mexico and Utah might, as soon as possible, be admitted into the Union as free states, and while it had emphatically demanded a change of the Fugitive Slave Law, the *Boston Courier*, an organ of the Whigs, wrote on the 30th of April, 1851: "We are well convinced that any political party which goes before the people of Massachusetts, maintaining that this law ought to be repealed, or that congress ought to hazard the peace of the country upon attempts to change it, will incur the great responsibility of deepening and strengthening the disposition to say that 'the fugitive shall not be given up, law or no law.' It is impossible to carry on popular discussion against this law, that does not go to the constitution itself."

<sup>1</sup> The *N. Y. Tribune* went so far as to write on Oct. 17, 1851: "We do not believe if the door of the Union were held wide open, a state could be induced to walk out in the course of the next half century. If any did, she would be glad to walk in again before she had been out two years."

<sup>2</sup> "I regret that any thing should have happened to encourage a belief that loyalty could be accepted on conditions, and especially on the condition of forbearing to repeal a repealable statute." To the Massachusetts convention, April 5, 1851. Seward's Works, III., p. 447.



by nature as Chase, nor could he boast of so thorough a training, but the natural boldness with which he told the south the whole unadorned truth, made him in this struggle, a warrior whose blows were scarcely less feared. And even if Wade's personality had much less weight than it really had, it would have been of no little importance that the agreement of the two senators on this question gave them a complete right to speak on it, henceforth, in the name of Ohio. The senators of other western states were such faithful and, in part, such servile partisans of the south, that it was easy to understand, how the slavocracy could indulge, more and more, in the dangerous illusion that they might count upon the west, in case of a breach.<sup>1</sup> If the northeastern states had shared this error, the further development of the slavery question might have assumed a very different character; and that it did not share it was due unquestionably, in great part, to the circumstance, that the most powerful state of the free west, took so decided a position against the slavocracy, thus early.

Of much greater weight was the election of Charles Sumner, in Massachusetts. In the first place, it was significant, because it was the result of a coalition between the Democrats and the Free-Soil party. Coalitions of this kind had been formed before, with no small success, but in this one there were two new features: the great number of those who entered into it on both sides, and the fact that the state elections were, in great part, the work of coalitions in which the Free Soil party had united in one place with the Whigs and in the other with the Democrats. These elections, therefore, pointed much more clearly than any previous happenings of a similar nature to the fact,

<sup>1</sup> See for instance the expressions of Dodge of Iowa, on the 22d of February, 1851. Congr. Globe, 2d Sess., 31st Congr., Append., p. 311

that the dissolution of the old parties was rapidly progressing, and that the ground was being prepared for the formation of a new party on the basis of slavery. That this was the deeper meaning involved in the history of the electoral campaign, was all the more undoubted, as, in the most important elections to be made by the legislature, the Whigs, who had thus far, as a general thing, shown less complaisance to the south, were the defeated party. They now feigned moral indignation, and accused the allies of entering into an unheard-of bargaining for office at the cost of their respective principles. The reproach was not well grounded, as, for the offices which according to the bargain fell to the part of the Democrats, men had been chosen, who wished to set bounds to the over-reaching of the slavocracy.<sup>1</sup> It was not the moral depravity of the victors but the defeat of their opponents which was to be measured by the unusually intense bitterness with which the latter accepted the result of the electoral campaign. What they felt most sorely was not that the most important offices had been given to men whose real adherents constituted only a small minority.<sup>2</sup> The blow was felt with such peculiar severity, because it was the judgment of the state on its great leader, Daniel Webster, and because the seat in the senate he had possessed so long, was now to be taken by a man whose name was an emphatic protest against the glittering principles and shifting policy of the speech of the 7th of March, 1850. Whether Sumner, on the whole, would be a worthy suc-

<sup>1</sup> Boutwell governor, and Rantoul senator, for the short term.

<sup>2</sup> In the address of the Whig state convention of Massachusetts, which was held on the 10th of September, 1851, in Springfield, we read: "Thus a candidate was placed in the governor's chair, who received but 36,492 out of 121,788 popular votes, and a United States senator was elected by the concurrent vote of a house of representatives in which his partisans amounted to 112 out of 400 members."



cessor to Webster, the future alone could tell, since, thus far, he had not filled an office of any kind. For years he had been known and prized as a man of thorough general and legal training and of great eloquence; but his election he owed entirely to his position on the slavery question and to the conviction that no power on earth could move him from his principles. This it was that made his election a boundary mark in the history of the United States. The rigid fidelity to principle and the fiery-spirited moral earnestness of abolitionism united to the will and capacity to pursue political ends with the given political means, received in him their first representative in the senate, without his being able to support himself on one of those crutches which party life seemed to have made one of the indispensable requisites of every politician.

No party could at the time measure the full significance of these elections, but the dullest politician could not fail to recognize that they made complete silence on the slavery question in congress, more impossible than ever. Yet deep, unbreakable silence was the first condition precedent to the maintainance of the compromise, as the settlement of the controversy. But the slavocracy made it simply impossible for their most moderate opponents to be silent; for silence was identical with unconditional submission, since the south had long since drawn up its next demand in precise terms and brought it forward in full form. In the senate, Major Borland had introduced a memorial of Kentucky, which prayed for the peaceable acquisition of Cuba, and in the house, Clingman had emphatically renewed the old announcement, that no power would prevent the slave holders from annexing new Mexican territory, as soon as they would need it.<sup>1</sup> Spite of the complete

<sup>1</sup> "When Texas is filled up by our emigrants, they cannot be prevented from passing the Rio Grande and revolutionizing the neigh-

victory of the compromise party over the radicals, the south had therefore remained convinced that the last acquisitions of territory were not sufficient to satisfy the want of expansion felt by slavery, and hence it maintained its programme of territorial enlargement. This was clearly and definitely to say that it looked upon the compromise simply as a settlement in respect to the objects directly in controversy, but that it would, sooner or later, again make the undecided question of principle, in its fullest extent, the order of the day, by the creation of new concrete objects of controversy. After these declarations, the north itself was entirely responsible for continuing to deceive itself and allow itself to be deceived as to this, that the compromise was an armistice the ending of which it might expect to be notified of at any moment.

boring provinces. They are destined to be occupied by our slaveholding population. It will fill up all the country around the gulf, including the peninsula of Yucatan, and perhaps the northern portion of the South American continent. This state of things will be likely to occur even before our interest requires it. That, whether it be desirable or not, there is no power on this continent to prevent it. Mexico is altogether too feeble. This government itself cannot do it. It had as well attempt to curb the waves of the ocean. I say boldly, that if the government makes the effort, it will itself perish in the attempt. As soon as we feel the actual want of additional territory, we shall occupy it either without or with the aid of this government." *Congr. Globe*, 2d Sess., 31st Congr., Append., p. 210.



## CHAPTER II.

## LOPEZ AND KOSSUTH.

After the close of the second year of office, the presidents of the United States, and with them the country, are wont to enjoy comparative calm, for a time. The legislative period has then come to an end, and unless extraordinary circumstances arise, the new congress is not convened for nine months. True, politicians and the press discuss with more or less vivacity the next presidential election, but that great question is still too much in the first stages of preparation, to disturb politicians in the enjoyment of their *dolce far niente*. Local questions and the doings of the rest of the world have to be used to a greater extent than usual to fill up the endless columns of the big newspapers.

The course which the last session of congress had taken gave no reason to surmise that Fillmore's presidency would be an exception in this respect. Spite of this, it could be no matter of surprise that the political calm was interrupted by a short storm. There was no lightning from a cloudless sky. On the contrary, the dark clouds became so noticeable as they slowly arose that full attention would have been certainly paid them if people had not so anxiously and so conscientiously gone out of the way of all excitement.

The intended freebooter descent on Cuba, in 1849, had remained unpunished. This lenity or weakness of the government, had the consequences which might have been

expected. Scarcely had the adventurers of Round Island been discharged, than the preparations for a new expedition were actively begun in New York, Boston and especially in New Orleans. It was not considered necessary to carry them on in secret, rather was it sought to attract the attention of the public. The enrollment and exercising of the crew were carried on with great publicity and the cockade of the republic of Cuba was paraded in the streets with great ostentation. Bonds for which the real estate and the state revenues of this future imaginary power served as security, were put in circulation, and Marisco Lopez, the head of the conspirators, was able to find a prominent man in a high judicial position who saw no objection to putting his name to those instruments of revolutionary propagandism against a friendly state.<sup>1</sup> Young enthusiasts and reckless adventurers were to hazard their lives in the game against Spanish soldiers and Spanish hangmen, for the "freedom of Cuba;" but the real movers in the affair took care not to leave the safe ground of the United States; the basis of their enthusiasm for freedom was either the slaveholding interest or the hope to see their copper mite return to their pockets as gold unalloyed.<sup>2</sup> The person who desired to keep himself informed of the course of the movement needed only to

<sup>1</sup> Hon. Colesworth Pinckney Smith, judge of the supreme court of errors and appeals of the state of Mississippi. Sen. Doc., 32d Congr., 1st Sess., Vol. I., No. 1, p. 28.

<sup>2</sup> "But what gives a peculiar criminality to this invasion of Cuba, is, that under the lead of Spanish subjects and with the aid of citizens of the United States, it had its origin, with many, in motives of cupidity. . . . None will deny that those who set on foot military expeditions against foreign states by means like these, are far more culpable than the ignorant and the necessitous whom they induce to go forth as the ostensible parties in the proceeding." Fillmore's annual message of the 2d of December, 1851. Statesm.'s Man. III., p. 1927.

read the advertisement columns of the newspapers by which the proposals of the junta were taken up as readily as any other business notices.

When the audacity of the conspirators had at last gone so far as to announce through the newspapers the formation of a junta in Washington—under the nose of the government, as Brownson expressed himself<sup>1</sup>—the Spanish ambassador, Calderon de la Barca, complained strongly of such doings.<sup>2</sup> Thereupon, the secretary of state, Clayton, directed the United States attorneys, in a letter of the 22d of January, 1850, to take steps against all illegal measures and violations of international obligations. But his instructions were given in so cool, not to say in so indifferent a tone, that he received the stereotyped answer in such cases, that the agitators had so far not been guilty of any open violation of law, and that hence it was impossible to institute proceedings against them.

The conspirators now naturally became bolder. On the 8th of May, Calderon complained to the secretary of state, that, according to the reports of the Spanish consul at New Orleans, crowds to the number of 400 had repeatedly come from the interior who, in their conversation, made no effort to conceal the fact that they were to be shipped from some point of the isthmus of Panama to Cuba. And on the 16th of May, the ambassador called the attention of the secretary to the fact, that the New York *Sun* had hoisted the flag of the republic of Cuba on its building.<sup>3</sup> Taylor and his cabinet had now become convinced that something must be done. As, according to the reports of their own officials, it was no longer doubtful that Calderon did not draw on his imagination for his facts and the blow would

<sup>1</sup> Brownson's Review, Oct. 1850, p. 498.

<sup>2</sup> Jan. 1850, Sen. Doc., 31st Congr., 1st Sess., Vol. XIII., pp. 19, 20.

<sup>3</sup> *Ib.*, pp. 23, 26.



very soon fall,<sup>1</sup> it must be put down as certain, that they would, even without his representations, have come to such a resolution, for no matter what they thought of the Cuban question, to see it carried towards a solution in this way was by no means in keeping with their wishes. Notwithstanding this, it may be assumed that the further information that the captain-general of Cuba was empowered, in case of necessity, to proclaim the emancipation of all the slaves, had very great influence on, and hastened, their reso-

<sup>1</sup> Hunton, the United States attorney in New Orleans, informs Clayton on the 14th of May: "You may rely on it that in connection with the supposed expedition against Cuba, no law of the United States has been violated in this district, . . . zealous and vigilant as he (the Spanish vice-consul) and others are, he has not since that time (March 6), communicated any fact in relation to the subject of correspondence.

"There can be no doubt that many persons have left New Orleans recently whose ultimate destination is the island of Cuba, and who, on arrival at the island, . . . will engage, under the command of General Lopez, to assist the dissatisfied people of that island in throwing off the dominion of Spain. The number of these emigrants has been greatly exaggerated—they are perhaps one thousand or fifteen hundred from this port.

"If Lopez shall be able to make a successful stand, it is said he will be joined by a distinguished gentleman, now the governor of a neighboring state (Quitman), to whom the command will then be yielded." *Ib.*, p. 25.

On the 6th of May, James Robb had written to the president from New Orleans: "It is not my province to give the names and parties concerned in making a descent upon the 'island of Cuba,' but it is proper to inform you that a military organization has been effected in the interior, not only formidable in number, but connections; and such as to leave no doubt upon my mind, as to the favorable result, in case they effect a landing, which is not improbable or impossible." *Ib.*, p. 49. And on the following day Wm. L. Dodge had informed him: "The last of the Cubans leave this evening. . . . The whole force . . . is probably between 6,000 and 8,000 of the very best kind of material, all procured and organized in the interior." *Ib.*, p. 50.



lutions.<sup>1</sup> This news was disseminated by the press and called forth, in certain circles of the slaveholders who had hitherto followed the freebooter movement with sympathetic interest, so much disquiet that they would now prefer to see the project given up. To others, on the contrary, it was by no means unwelcome, as, in their opinion, the execution of the threat would necessarily bring Spain into a serious conflict with the United States which would pave the way for the attainment of their ultimate end, the annexation of Cuba. The government, however, was now industrious to show a very marked loyalty towards Spain. Clayton, on the 18th of May, excused its former passivity by saying that it had not received the requisite information from its subordinates.<sup>2</sup> Whatever value Calderon might attribute to this rather strange excuse, the simultaneous announcement that, from the 7th to the 12th of May, several ships of war had entered Cuban waters to seize the filibusters, in case they attempted to land, must have afforded him great satisfaction.

The will of the government was good, but it had looked on too long inactively. On the 7th of May, Lopez had left New Orleans with the *Creole*, the principal ship of the filibusters, and had landed safely at Cadenas on the 19th. The Cubans were defeated in a skirmish, and the

<sup>1</sup> "The captain-general of Cuba has authority from his government to declare the freedom of the slaves in case of 'civil war.' Such a measure deeply concerns our country and its domestic institutions, and I most respectfully suggest whether it would not be advisable to notify the Spanish authorities that if carried out, it would call for your interference." Robb, l. c.

"I should think self-preservation would authorize us to interfere to prevent such an ultra measure by the local authorities as a general emancipation." Hodge, l. c.

<sup>2</sup> "It is true that, within the last three months, an unusual number of passports have been sought and obtained at this office, by indi-

governor himself fell into the hands of Lopez. On the other hand, two of his ships were captured at Contoy by the war steamer Pizarro, and the filibusters taken prisoner. Spite of his easy triumph, therefore, Lopez could no longer hope for any striking successes,<sup>1</sup> and sailed back again. The Pizarro followed close on his heels, but the Creole ran safely into the harbor of Key West on the 21st. An embargo was laid on the ship by the collector, Douglass, but Lopez was not arrested until the 25th, by an express order of the secretary of state. That very evening, the district judge set him at liberty again, and the general took his departure for New Orleans.<sup>2</sup>

Any one who allows his judgment to be guided by common sense, without too anxiously studying the subtleties of international law beforehand, will unquestionably be of the opinion that Spain had reason to complain of the United States. As it had to do only with Spain, powerless and menaced, it was not difficult for the government

viduals alleging that they were about to proceed to California and Oregon. No means existed of detecting their real purpose, except through the United States officers at the various ports of embarkation, and these officers having unfortunately failed to furnish any information on the subject, it is proper that inquiries should be instituted into the conduct of such of them as might be supposed to be cognizant of the intended invasion and yet failed to give notice of it to their own government." *Ib.*, p. 30.

<sup>1</sup> The Spaniards had, in the meantime, received reinforcements and an ominous disposition began to manifest itself among Lopez's own people.

<sup>2</sup> "In pursuance of your instructions Gen. Lopez was yesterday arrested on the affidavit of the Spanish vice-consul. He demanded an examination, which was held last night before the district court judge, by whom he was discharged, there being no evidence procurable here sufficient to commit.

"Gen. Lopez left this morning for Mobile on his way to New Orleans." H. Williams, U. St. District Attorney, to Mr. Clayton, May 26, 1850. *Ib.*, p. 46.



at Washington to change the parts played by each. The Contoy prisoners were reclaimed, for the reason that Spain did not have the right to incarcerate citizens of the United States on Mexican soil. This might be correct, according to the letter of international law, but as things actually were, the assertion was identical with the demand that Spain should look, with folded arms, on the fitting out of expeditions against its colonies. Barringer, the American ambassador at Madrid, was unquestionably right when he said that Contoy was not, in an international sense, a desert, that is an abandoned island and hence *terra nullius*. The jurisdiction of Mexico over the island had a rightful foundation, and legally its jurisdiction was exclusive and absolute.<sup>1</sup> But that did not alter the fact, that, in the ordinary sense of the term, Contoy was a desert island, and that Mexico, no more than the emperor of China, would or could see that nothing was put in operation on its soil by citizens of the United States in opposition to its international obligations. Whether the United States, in good faith, entertained the wish to prevent this was not considered, since, according to its own principles, it no more than Spain was entitled to enter Contoy. Hence its theory amounted to this, that Spain would have to recognize the island as a sacred asylum for filibusters.<sup>2</sup> That

<sup>1</sup> Barringer to Minister Pidal, Sept. 19, 1850. Sen. Doc., 31st Congr., 2d Sess., Vol. V., No. 41, p. 24.

<sup>2</sup> "This (the unconditional extradition of the prisoners) would be to establish as a principle that those taking possession of a desert island, which may well be supposed as it has already happened, might establish in that their headquarters of operations against the possessions of Spain, and there await a favorable opportunity to go forth to commit hostilities and rob them, without any one being able to combat them, or oppose their designs, even till the moment of disembarkation. Spain, according to this principle, would not be able to attack them in their rendezvous in order to destroy the preparations made against her, and shun the invasion of her possessions; and as, on the

the United States was morally obliged, vis-à-vis of its own citizens, under penalty of being charged with disregarding all considerations of equity towards Spain, to adhere to the letter of international law could not indeed be claimed since they had not only trampled on the law of nations and the rights of Spain, but had grossly violated the laws of the United States.<sup>1</sup> In the United States, no one would have had reason for complaint, if the government had left the maintenance of the law of nations and of Mexico's rights to the latter, and Spain was all the more entitled to expect this as the United States had displayed so little skill and energy, on its own territory, in stopping the preparations of the filibustering expedition. In Washington, now, no one would listen to the veiled admissions made by Clayton, on the 18th of May. Barringer claimed in Madrid that Spain was greatly indebted to the United States, because it was to be ascribed solely to the efforts of the United States, that the expedition numbered only from five hundred to six hundred men and

other hand, the government of the United States would be just as little able to prevent such scandals, because, according to the principle invoked, their authors would be also without the range of its jurisdiction, and on an island pertaining to a third power, the invaders or pirates would remain in a complete freedom to continue, and to prepare without risk or danger their invasions and their robberies." Pidal to Barringer, Sept. 15, 1850. *Ib.*, p. 18.

<sup>1</sup> In Taylor's proclamation of Aug. 11, 1849, we read: "I have, therefore, thought it necessary and proper to issue this proclamation, to warn all citizens of the United States, who shall connect themselves with an enterprise so grossly in violation of our laws and our treaty obligations, that they will thereby subject themselves to the heavy penalties denounced against them by our acts of congress, and will forfeit their claim to the protection of their country. No such persons must expect the interference of this government, in any form, on their behalf, no matter to what extremities they may be reduced in consequence of their conduct." *Statesman's Man.*, III., p. 1846.



not twenty thousand.<sup>1</sup> Both figures were entirely imaginary, and in total contradiction with the facts. According to the official data, the Creole had run into Key West with six hundred men on board, and the merit of the capture of the other two ships the United States could certainly not ascribe to itself. The adventurers could never have brought twenty thousand men together, for the simple reason that the money necessary to accomplish that end was not to be had. But even leaving this out of consideration, it was strange to see the United States take credit to itself because the injustice Spain had to suffer had not assumed much greater dimensions. Plainly, the view which it pleased the government now to take could be justified only on condition that it accompanied its demand with the declaration that it desired to make an example itself of the malefactors, in order to give the whole people an unambiguous proof how seriously it intended to observe its international obligations. Clayton, indeed, gave the assurance that this would be done, but as the punishment was to consist in the contempt all good men would feel for them, Spain must have felt tempted to look upon the pompous promise as a bad joke.<sup>2</sup> Yet as

<sup>1</sup> "I was authorized to say to his excellency that, but for the successful and efficient exertions of the government of the federal Union to suppress and defeat it (the expedition), instead of being composed of five or six hundred men, it would most probably have mustered a force of twenty thousand." Barringer to Clayton, Aug. 7, 1850. Sen. Doc., 31st Congr., 2d Sess., Vol. V., No. 41, p. 10.

<sup>2</sup> "But supposing the facts relating to their capture to be, as they are represented to us, the president has resolved that the Eagle must and shall protect them against any punishment, but that which the tribunals of their own nation may award. Tell the Count of Alcoy to send them home to encounter a punishment, which, if they are honorable men, will be worse than any he can inflict, in the indignant frowns and denunciations of good men in their own country, for an attempt to violate the faith and honor of a nation which holds its

Clayton at the same time threatened Spain with the claws of the "Eagle," it could not well indulge in the enjoyment of the comical. All that remained for it to do was to effect a retreat with as much outward decency as possible. The question of principle remained unsettled, but the larger number of the prisoners were set at liberty by the courts of Havana, and Spain pardoned the condemned.

In the meantime, the real value of Clayton's frightful chastisement had long since been established by the facts. The indignant frowns of the good had made so little impression on the filibusters, that the government itself even seemed satisfied to punish the evil doers and their guilty action with silent contempt. By the order of Clayton, indeed, a suit had been instituted against Lopez and his associates, in New Orleans. But the institution of such proceedings by no means hindered them from travelling over the whole country, and agitating everywhere—the federal capital not excepted—in favor of a new expedition, with redoubled boldness. On the 26th of July, Calderon had informed Webster that the insulting scandal which the New York *Sun* had been guilty of some months before had been repeated in New Orleans in a still more objectionable manner.<sup>1</sup>

character for integrity of more value and higher worth, than all the Antilles together. But warn him in the most friendly manner, and in the true spirit of our ancient treaty, that if he unjustly sheds one drop of American blood, at this exciting period, it may cost the two countries a sanguinary war." Clayton to Campbell, June 1, 1850. Sen. Doc., 31st Congr., 1st Sess., Vol. XIII., No. 57, p. 49.

<sup>1</sup> "In the office of the *Delta*, in New Orleans, they have, in imitation of what was done by the editors of the *Sun*, in New York, hoisted a flag, which the agitators call the flag of the Cuban republic; and when, on the 9th of this month, it was taken down, it was publicly saluted by the company of artillery (Washington) by the firing of thirty-one guns in the square of Lafayette." Sen. Doc., 31st Congr., 2d Sess., Vol. V., No. 41, p. 63.



On the other hand, the administration was bitterly reproached in the senate because it had merely attempted to prevent the first landing. It was accused of having overstepped its constitutional power, by unauthorized participation in the "war," and of having entered the service of despotism.<sup>1</sup> The absurdity of these charges was too great to afflict the administration. But they were brought forward by a slavocrat of reputation and influence, and were hence not entirely devoid of importance. That Yulee himself considered his assertions to be well grounded seems scarcely credible, although shameful exhibitions of the grossest ignorance of international law, in the senate, were by no means unheard of. But Yulee's words were intended, not for the senate, but for those outside of it; he desired to address the passions of those who could either have no knowledge whatever of international law, or who would not allow its commands to lie heavily upon their conscience. If he had hoped, in this way, to bring any pressure to bear on the administration, he must have been greatly deceived, for public opinion was not at all in a state of spontaneous excitement in regard to the

<sup>1</sup> Yulee, of Florida, said: "I go further, and say that the acts ordered to be done are acts of war. I say that the president has undertaken to involve the country in the danger of a hostile collision without the authority of congress, and therefore in violation of the constitution. In support of this position I have to refer back to the ground which I took just now, that the moment a revolutionary flag has been raised in the island a civil war is begun, and that by the laws of nations the respective parties in the struggle are to be regarded by all other people as belligerent powers. I say, then, that the order given to our fleet to go upon the coast of Cuba, where this war is raging, to take part in that war by preventing re-enforcements and supplies for one party and not the other, is a participation in the war. . . . The sympathies of the government have of late appeared to lean rather to the side of despotism than to liberal progress." *Congr. Globe*, 31st Congr., 1st Sess., p. 1033.



liberation, that is to the acquisition, of Cuba. But the character of the people, and the whole history of the Cuban question, caused it to be expected that it would not be difficult to find extensive favor for the thought, and that is what was kept in view. Even where people really disapproved of the employment of illegal means, and where regard for the slavery interest caused serious hesitation as to the acquisition of the island in any form, the brilliant prize had so much attraction for the people that the administration was exposed to no pressure of public opinion even from the opposite side. And the government itself shared, to a certain extent, this disposition of the public. For the filibusters, it had not the least sympathy, and under the circumstances it would not have been at all desirable that the force of things should have compelled it to fix its eyes on the incorporation of Cuba into the Union in a loyal way. But neither did it consider itself necessitated immediately to oppose the tendencies to annexation, in all their forms, with all its energy, in order to prevent a second filibustering expedition, which might easily be attended by consequences still more disagreeable than the first. Things were allowed to take their course until it was again too late.

Not until the 25th of April, 1851, did Fillmore issue a proclamation against the filibusters,<sup>1</sup> which was entirely unambiguous, but the tone of which was somewhat milder than Taylor's proclamation of 1849. In his message of the 2nd of December, 1849, the president declared that this warning and the instructions issued to the federal officials gave hope, for a time, that the expedition which had been planned would be stopped. On what this expectation was based is not apparent. The preparations went

<sup>1</sup> Statesman's Manual, III., p. 1924.

steadily forward, and, on the 3d of August, Lopez left New Orleans with over four hundred men. He ran into Key West unpunished, and landed on the 12th of August in Bahia Honda.<sup>1</sup> Lopez marched immediately, with the larger part of his little army, into the interior, and left Crittenden, a son of the senator from Kentucky, with one hundred and thirty men, to guard the baggage. An evil star presided over the undertaking. The creoles nowhere bestirred themselves, and when Crittenden on the next morning set out to follow the general, he met a division of Spanish soldiers, who, after a bloody battle, drove him back to the sea. About fifty men saved themselves in the boat, but were captured by a Spanish cruiser, brought before a court martial, and executed on the 16th of August. Lopez repulsed the first attack of General Enna, but was driven into the mountains, in a fresh battle, after his army had been completely routed, on the 23rd, and accompanied by only seven men was taken prisoner on the 26th. On the 1st of September the bold, enthusiastic adventurer was garroted in Havana.

When the news of the execution of the fifty prisoners came to New Orleans, on the 21st of August, the washed and unwashed mob took revenge on the Spanish inhabitants of the city. The presses of the newspaper *La Union* were destroyed, and several Spanish tobacco stores and restaurants plundered. The consulate was treated worst of all. The picture of the queen and the flag of Spain were most grossly insulted, and the consul himself was obliged to take flight before the mob. The police did not make the least attempt to stem their fury, and not a single arrest. The troops, on account of their expressed

<sup>1</sup>The message says Playtas.



sympathies with the mob, were not called out to preserve order.<sup>1</sup>

No ground could now be found to force a change of parts on Spain, and the government had no inclination to find a pretext to do so. The prompt execution of the first prisoners was indeed intensely disagreeable to it, and it immediately took the necessary steps to assure itself officially that their trial afforded no ground for just complaint; but it based its intercession for the survivors not on high-sounding language or threats, but on the honest earnestness with which it represented to congress that full satisfaction should be rendered to Spain for the doings at New Orleans. It had now become fully convinced, that the daring game of the liberators of Cuba could no longer

<sup>1</sup> In the official report of the district attorney, of the 25th of September, to the secretary of state, we read: "None of the police appear to have been present (at the storming of the newspaper office), and no arrests were made. . . . No arrest was made of any of the persons who had been found in the office (of the consul). After the mob had withdrawn, the doors were closed and nailed up. No guard was placed over the office, but the police retired, or were called off to other scenes of disorder, without any apprehension, apparently, that the attack would be renewed. Within an hour afterward the rioters returned, forced their way again into the office, and without any interruption or hindrance destroyed all the furniture of the office, threw the archives of the consulate into the street, defaced the portraits of the queen of Spain and the captain-general of Cuba, and tore the flag of Spain (which they found in the office) into pieces.

"All these outrages were committed upon the office of the consul without any interference on the part of the police (none of whom appear to have been present), and without the apprehension, as yet, of any of the offenders." Sen. Doc., 32d Congr., 1st Sess., Vol. I., No. 1, pp. 49, 50.

Consul Laborde writes to Calderon: "The calling out of the troops, for the preservation of order, was evaded in various ways. I was informed that the greatest portion of them partook largely of the same sentiments, and that they were not, therefore, to be trusted." *Ib.*, p. 46.



be taken as easily as formerly. England and France had announced that they had given orders to their men-of-war, stationed in West Indian waters, to prevent by force any new attempt of the filibusters to effect a landing. Crittenden, who at the time was acting as secretary of state, intimated to the ambassadors, Crampton and Sartiges, in a moderate and yet very emphatic way, that such an attempt of the two powers to exercise maritime police power in American waters, by virtue of their own sovereignty, might easily lead to serious complications. That this warning was seriously intended there was no doubt. And just as certain was it that the European western powers would not allow themselves to be terrified by that warning, if the United States did not henceforth prove, by its acts, that it, as Crittenden declared, was really competent and resolved to execute its laws which forbade its citizens such freebooting expeditions. If these were not idle words, like those Spain had to listen to so frequently, the Cuban question would, at no distant day, lead to one of the most menacing of international complications; for if the American people, without distinction of party, were irrevocably resolved not to allow any European power but its legitimate owner to have the pearl of the Antilles, the declaration of Sartiges that no foreign great power, and therefore not the United States, should come into possession of it, was no less seriously intended.<sup>1</sup>

Public opinion, too, had been stirred up by the tragic end of the adventurers. But when the Cuban agitators and their closer adherents thought that they could turn this immediately to their own advantage, they were doomed to bitter disappointment. Not only did their cry for vengeance find no echo,<sup>2</sup> but they were told to their face by

<sup>1</sup> Compare *Ibid*, pp. 58, 74, 81.

<sup>2</sup> The *National Intelligencer*, of August 26, 1851, writes: "But we

the most respectable journals that it was a daring project to carry on their agitation under the banner of freedom, since the Cubans had by their acts proven that they had no desire for that freedom, or, at least, that they did not intend to stir a finger to obtain it.<sup>1</sup> If any one had had any illusions earlier on this matter, it must now have become perfectly plain to him, that the people had nothing left for the Cubans; they were as indifferent to the Cubans and Spanish despotism as to the doings of the shah of Persia. But from the very fact that this was now so clear, the agitators were obliged to remove the mask under which they had hitherto operated, so that nobody could any longer pretend that he was deceived as to the true

must not suffer ourselves to be blinded by the tears of commiseration to the enormity of the crime, not so much of these unfortunate victims (the executed filibusters) as of those, far less innocent than they, who, first blindfolding their dupes, led them to the edge of the precipice, and then urged them over it into the yawning gulf. Yet hear these very men now, in the city of New York, screaming themselves hoarse with the cry of Revenge! revenge! See them posting up placards at all the corners of the narrow streets and blind alleys of the city, calling public meetings to express their vengeful wrath! . . . It is a consoling circumstance that the people have not responded to the call of these gentry. They understand the matter. No journal in New York of any character has seconded their cry. No man of any mark has made his appearance at the meetings which have been held."

<sup>1</sup> The *Republic*, which appeared in Washington and was considered inspired, writes: "In the quarters where there is the most show of excitement, it would seem that the pressure of impending elections has stimulated the members of all political parties to the determination that no one shall profit by a monopoly of sympathy in behalf of oppressed humanity. The impression, however, seems to be generally prevailing that the attempt to force liberty and independence upon men who are not disposed to seek these blessings is rather a work of supererogation; and that the expedition of Lopez is so exclusively one of conquest, rather than of 'aid and comfort' to a struggling people, that there is nothing to save it from the infamy of an adventure for robbery and plunder." The *N. Y. Tribune*, Aug. 27, 1851.



character and the seriousness of the agitation. Not Cuba but only the liberation of Cuba ceased to be the order of the day. Men no longer made any concealment of the fact that what was desired was the annexation of the island, and Democratic politicians and newspapers even now openly announced, that they intended to make that one of the principal party questions. Among its loudest advocates, from the beginning, were politicians of note from the free states.<sup>1</sup> This was a circumstance to be carefully considered. From this fact it appeared that not only at least a great part of the northern Democrats would willingly enlist, as usual, in the service of the slavocracy, but that some of their leaders were resolved of their own initiative, and entirely independently of the slaveholding interest, to labor energetically for the acquisition of the island. The danger, that the project would sometime come up for execution, was thereby naturally increased. But on this there was no need of laying too much stress,

<sup>1</sup> On the 11th of September, Ex-Governor Reynolds, of Illinois, wrote to the publisher of the *Anzeiger des Westens*, a German Democratic paper, published in St. Louis: "I am much pleased to see that you have stirred up the dry bones of the Republican newspaper of this morning, the 11th, on the Cuba subject. You have taken the right ground—that the Spaniards have themselves violated the 'old treaty' of 1795, and it is all broken loose as to us; but the blue-light Whig papers will justify the government, right or wrong. The course, in my judgment, and the one which I shall pursue, is to rouse the people for true and genuine liberty, and by this course the people will force the government into war, or put this Whig administration out of power. . . . I see the Democratic papers have taken up for Cuba all over the Union, and of course the Whigs are strong on the other side. This Cuba subject will be a strong element in the next presidential contest. I think Douglas will go for Cuba. I will vote for no man opposed to Cuba." The N. Y. *Tribune*, Sept. 27, 1851. Douglas had shortly before spoken at an agricultural fair, held in Rochester, N. Y., of "the probable annexation of more sugar-growing states to the Union."



for, from all experience hitherto, it was not to be expected that Spain would, under any circumstances, entertain the idea of a trade, and at the time, there was no occasion for the fear that the majority of the American people would allow themselves to be drawn into an open robber policy. Nevertheless, it was a cause for apprehension, that the character which the question received from this fact would come to have a much greater importance, through its direct or indirect influence on internal political affairs. All obscuration of the slavery question, by the complication of the slave-holding interest with interests and tendencies which in themselves had nothing in common with it, or which were more or less in opposition to it, so far as principle was concerned, was a serious imperilling of the cause of freedom. In spite of all the triumphs of the slavocracy, the slavery question became stronger from day to day, this was due in part to the fact that, in the actual development of things, it had been separated from the foreign elements connected with it, to such an extent that it was recognized more and more as a specific problem, which was daily becoming the dominant one. This knowledge could never again be lost, but the whole compromise tended to bring things to a standstill, because its legitimate political consequences were drawn from it, and people were now on the point of starting in the opposite direction. The slavocracy was always the gainer when the "eagle" was taken from the crest of arms and thrown into the fire, that people might delight in his soaring and afford the world a new proof that it was really the lightning of love that he held in his claws. Hence the most ardent promoters of freedom were working into the hands of the slavocracy when, in the honest belief that they were acting in the cause of liberty and fulfilling a sacred duty to it, they began on the ground of an entirely dif-

ferent question, to take part in the dangerous play which the representatives of the hankering after territorial aggrandizement of the west, in relation to Cuba, had put upon the stage.

Whoever tries to write the history of the United States, during the first century of its existence, in strict accordance with truth, and to call things by their right names, has, in certain respects, a peculiarly difficult and ungrateful task to perform. His European readers will frequently not understand him, or they will misunderstand him, because it seems to them that he at every moment involves himself in gross self-contradictions; and Americans will reproach him with unjust criticism and a want of understanding; but so far as the elements which come chiefly into consideration are concerned, the views and judgments of the censors will contrast more strongly with one another than with those of the censured. The course of development of the United States was forced into two opposite directions by slavery. The whole intellectual and social life of the people, therefore, bore a twofold character, in which opposite qualities not only were to be found side by side, but which, despite their twofoldness, had grown into one whole. More than one generation will have to sink into the grave before the American people, regenerated in the baptism of blood of the civil war, will have cast out of them all that was introduced into the national character by the "peculiar institution." But so long as this has not happened, no representation of that period will, in the undivided opinion of the people, be correct in that which is essential; and, until the end of time, no description of that epoch will be free from the presumed contradictions referred to. It is not the historian who contradicts himself. The contradictions are historical facts, and they constitute the principal key to

the understanding of American history. The investigator will hesitate a long time, before he makes the very bold claim that he has succeeded in completely penetrating these opposed sides of the people's character in their manifestations, in fully understanding them in their co-operation and in their reciprocal effects, and in weighing them rightly one against another. And yet it is still more improbable that there ever will be a master of the art of representation who, even where he has himself had clear and correct conceptions, will be able to give an entirely clear and satisfactory picture of them to his readers. If he really had a picture to place before their eyes, this might, perhaps, be possible; but the medium of speech is not sufficient, for the reason that both sides cannot be shown simultaneously. But to be apprehended in the fullness of truth to life, they must be simultaneously conceived as they simultaneously were. But the simultaneous grasping in thought of the confusion of contradictions, without attaching too much weight to the one side or considering the other either a fiction or a comedy, becomes more difficult every day. If the intergrowth of two such different epochs and kinds of civilization remained an enigma even to those who, under the irresistible pressure of actual circumstances, were obliged to work out, from opposite sides, the solution which fate determined for it, why should not the understanding of it be infinitely more difficult for those to whom slavery, like the rack, was simply an historical fact?

The revolutionary movements in Europe afforded many opportunities for the people, in their jubilation, to manifest that side of their twofold character which, in the internal struggles of domestic policy, had for so many years been condemned to play the part of the defeated opposition. While, as regards their own affairs, the polit-



ical constellations fell more and more under the rule of the dark star of slavery, European affairs seemed emphatically to recall to the world the fact that the starry banner was the standard of freedom.

The interest which the United States took in the struggles for liberty of European peoples was not felt equally for all. Formerly, as a matter of course, the first place was always given to the French. Now it was surrendered to the Hungarians. People did not endeavor to account to themselves at all for this preference. It was partly due to the fact that the Hungarians were struggling not only for free institutions, but for their political independence. The people of the United States thought of their own glorious past, and did not inquire very carefully whether, and to what extent, there was a real analogy between the two cases. They did not feel tempted to make even the most superficial examination of the question, because they knew too little of Austrian and Hungarian affairs. The sympathy felt for the hot-blooded, brave and self-sacrificing Magyars, and especially for their eloquent leaders, was not assumed, and men did not play with their own feelings, but the feeling was not exceedingly deep; for fancy and humor had as much to do with it as sober thought. The United States were not outside the current of the time, and that current was characterized by a conception of freedom in which idealism was allied with self-certain doctrinarianism; and the insufficiency of the faculty of judgment was covered up by fanciful exuberance and the vivacity of sentiment. In the United States, there was indeed a great counterpoise to this, in the fact, that it had been so long itself in the earnest school of self-government. The United States, therefore, reserved this freedom, if the expression may be allowed, for extraordinary occasions and for its guests, while the freedom

intended for its own daily use looked far more sober, but was far more serviceable. On the other hand, however, it now felt very much inclined to go out of its way for state and parade freedom, in order to rehabilitate itself before the rest of the world, and, to a certain degree, to absolve itself in its own eyes from the many sins of which, under the pressure of slavery, it had been recently guilty against real freedom. This was not conscious reasoning—the high-strung national feeling would never have allowed it—but an involuntary impulse, which was followed all the more willingly as the whole life of the people still had its natural basis in the principle of freedom, spite of the fact that the servitude into which that principle had been forced by an institution entirely at war with it, became harder from day to day.

The first proof of sympathy for the Hungarians—we do not, of course, include here the effusions of the press and irresponsible persons—had a very realistic, political character. At the solicitation of Kossuth, the American chargé d'affaires, in Vienna, endeavored to obtain a suspension of hostilities from Schwarzenberg and Windischgraetz in the fall of 1848. Mr. Stiles had made the attempt at mediation without authority, but with so much discretion that he not only received the subsequent approval of the government at Washington, but was also received in a friendly way by the Austrian authorities, since they had no occasion to consider his action as the taking the part of the rebels. And indeed, up to this time, there was no thought, even remotely, of such a thing. What first induced Taylor to go beyond the role of the not indifferent yet not fully passive spectator, was the representations and the pressure of the Hungarian patriots, who had come to America in large numbers, at the end of 1848 and the beginning of 1849. In June,



1849, he sent a secret agent, A. Dudley Mann, to Hungary, to obtain information concerning Hungary, its resources and prospects, with a view to a speedy recognition of its independence, and of entering into commercial relations with it. Mann's report of course did not come up to what was wished but scarcely expected, since the drama of Hungarian independence had been played to the end. The agent was overtaken by events, and his mission, therefore, remained without an object. Whether the Austrian government had any knowledge of it, the sources of information at my command do not permit me definitely to say.<sup>1</sup> However, Austria first took official notice of it, when Taylor, at the request of congress, sent it a message with all the documents relating to the mission. The latter were printed. The Austrian chargé d'affaires, Hülsemann, who had already addressed a letter of remonstrance to Clayton, the secretary of state, but who was curtly turned away, repeated the attempt to obtain satisfaction, on the 30th of September, 1850. He might now calculate on better success as, in the meantime, the place of Taylor and Clayton had been taken by Fillmore and Webster, who did not need to endorse the action of their predecessors. But as neither the president nor the secretary of state shared, in this respect, the lax and inconsiderate views of a Jackson or a Polk, this hope would have been disappointed under any circumstances. But besides Hülsemann discharged himself of his task with so much want of skill that an administration which had any

<sup>1</sup> According to Hülsemann's letter, of which we shall speak presently, it must be assumed that it knew nothing of it. Webster, however, says in his letter of Jan. 16, 1861, to Ticknor: "It is curious enough, but it is certain that Mr. Mann's private instructions were seen somehow by Schwarzenberg." Curtis, *Life of D. Webster*, II., p. 537. This interesting and important letter is not to be found in the *Priv. Corresp.*



regard for the national honor could not have helped emphatically to direct him to keep within proper bounds. After Russia had played so material a part in the suppression of the Hungarian revolt, it was, to say the least, a want of taste, in haughty tones to represent to the United States that it had doubted the capacity of Austria, for a moment, to master the rebellion. This tone of presumptuous exaggeration ran through the whole document and gave its opponent the game in advance. The only thing that could be justified was the complaint that the United States, by Mann's mission, had manifested a want of friendly feeling which Austria might with justice remember on a proper occasion.<sup>1</sup> On the other hand, the reproach of a violation of the principle of non-intervention was evidently unfounded, unless an extension was to be given to it which had as yet never been accorded it. There could be absolutely no question of a violation of international obligations, as Mann had done absolutely

<sup>1</sup> "Was it in return for the friendship and confidence which Austria had never ceased to manifest towards them, that the United States became so impatient for the downfall of the Austrian monarchy, and even thought to accelerate that event by the utterance of their wishes to that effect? . . . Even if the government of the United States were to think it proper to take an indirect part in the political movements of Europe, American policy would be exposed to acts of retaliation, and to certain inconveniences, which could not fail to affect the commerce and the industry of the two hemispheres. All countries are obliged, at some period or other, to struggle against internal difficulties; all forms of government are exposed to such disagreeable episodes; the United States have had some experience in this very recently. Civil war is a possible occurrence everywhere, and the encouragement which is given to the spirit of insurrection and of disorder most frequently falls back upon those who seek to aid it in its developments, in spite of justice and wise policy." Hülsemann had a right to speak not only of the deceased president but of the United States, since neither the senate nor public opinion disapproved Taylor's course, after the documents were brought to their knowledge.

nothing and had had no connection whatever with the rebels. It was, therefore, nonsensical and boldly insulting when Hülsemann asserted that Mann had been exposed by those who had commissioned him to the fate of a spy. It was moreover an entirely objectless and gross insult when the ignorance of the United States government and the faith it had attached to lying reports of the American press were given as an alleviation of its guilt.

The claim that Austria had to complain of a want of friendly feeling could not be refuted, and hence Webster made no attempt whatever to do so, in his answer of December, 1850, but only opposed to it generally, and in an indirect way, his own claim that there was no foundation for the complaint.<sup>1</sup> Just as curtly did he treat the threat, that Austria, when the occasion offered, would repay the United States in its own coin: in a few cool, dignified words, Hülsemann was given to understand, that such considerations could not influence the action of the republic. The remaining points, on the contrary, Webster submitted to an exhaustive examination, and refuted his opponent, who was no match for him, in the most brilliant manner. It is not necessary to follow his reasoning, since the episode in itself, is of too little importance, and we have here to do neither with the principles of international law involved in the controversy, nor with Austria's interest in the question. The significance of the affair, in the domestic history of the United States, depends on the tone, in which the secretary of state, addressing Austria, presented to European cabinets the political creed of the Union.

<sup>1</sup> "But this sympathy (for nations struggling for institutions like their own), so far from being necessarily a hostile feeling toward any of the parties to these great national struggles, is quite consistent with amicable relations with them all."



In the flourishing period of the Holy Alliance, the opposite fundamental political views of the new world and the old had repeatedly clashed with one another. Even then, the United States had fully and entirely entered the lists for the principles on which its own existence was based, but in this it acted altogether on the defensive. The pregnant victory which it won, was limited to this, that when England at last came again to the consciousness of its right position and real task in the politics of the world, the efforts of the Emperor Alexander to make the underlying principle of the Holy Alliance prevail, were frustrated in the new world by the recognition by the United States and Great Britain of the former Spanish colonies in America, without their having been able to assume the form of an actual attempt. However justified Canning's proud saying, *novus sæculorum nascitur ordo*, was, it was based only on this, that not the whole western civilized world was given over to the principle of the exclusive "legitimateness of the singular number," as Botta expressed himself; for the sea was set as an unsurpassable boundary to its continued growth. Now, Webster triumphantly proved, that this new order of the world, had entered its second stage of development. He was not satisfied with enlarging on the fact that, as a matter of course, the United States followed with lively sympathy the efforts of all peoples who based themselves on the principles which lay at the foundation of its own political organization. He called attention to this, that the propagation of freedom, the task which fate had assigned to the United States, had been already recognized by the Emperor Joseph, and with a touch of irony, he, at the close, gave expression to the satisfaction which the president found in the fact, that the Austrian constitution had adopted so many of the principles which, according to the views represented by the



United States from the beginning, corresponded to the wants of an enlightened age.

It had been scarcely expected in Vienna that the answer to the complaints concerning the sympathy and moral support given to the Hungarian rebels by the United States, would be the wish that democratic principles might be maintained in Austria as strongly as in the United States. The parts played by each were changed. It was not yet a generation since the United States was obliged to guard itself against the principle of the Holy Alliance, and now Austria's complaints were rejected with the request that it should clearly understand to what an extent the fear expressed even then by Gentz, had been realized, that spite of the dividing seas, the democratic principles of the new world would eat deeper and deeper into European thrones. Webster repeatedly emphasized the fact, that the United States had become guilty of no violation of the principle of neutrality and non-intervention, and that it would hold to that principle, inviolably, in the future, but the whole letter was evidently pervaded by an aggressive spirit. This was unquestionably his real conviction, but he, at the same time, gave it very plainly to be understood that, in his opinion, there was no need of an interference in the domestic affairs of European states to bring the old world under the influence of the new, since such influence was the inevitable consequence of the steady working of the leaven of American ideas in the untenable situation of Europe. In a tone which verged on insult, he paraded the Union as the state of the future.<sup>1</sup>

It was not Webster's custom to carry on the transac-

<sup>1</sup> "The power of this republic, at the present moment, is spread over a region one of the richest and most fertile on the globe, and of an extent in comparison with which the possessions of the house of Hapsburg are but as a patch on the earth's surface."

tions with foreign powers, in this bold manner. He was a very acceptable secretary of state to the diplomatic corps, because he united blameless urbanity with the skillful, firm and rigid preservation of the interests of his country, and was entirely free from the insipid exaggerations and spread-eagleism characteristic of American stump speakers. Indeed, a great part of his own countrymen had bitterly reproached him with his amiability and with carrying his conciliation too far. Webster, therefore, must have had special reasons, in this case, for deviating from the principles which had on all other occasions guided him in the treatment of foreign politics. In the letter to Ticknor, already mentioned, he expresses himself, unreservedly, on the grounds which moved him to do so. He acknowledges to his friend, that he wished to bring foreign countries as well as the United States to a consciousness of the weight of the United States in the scales of the civilized world, in order to inspire the former with the necessary respect and to make the latter ashamed of the very thought of the disruption of the Union.<sup>1</sup> And no wrong will be done him, if it be assumed, that he thought too of the brilliant light that would be reflected on the author of such a letter. Again he gave himself up to the sweet dream, that he would yet exchange the place of first councilor for that of the gentleman in the White House, and the thought was natural that such an appeal to the national pride would do much towards the realization of this hope.

<sup>1</sup> "If you say that my Hülsemann letter is boastful and rough, I shall own the soft impeachment. My excuse is twofold: 1. I thought it well enough to speak out, and tell the people of Europe who and what we are, and awaken them to a just sense of the unparalleled growth of this country. 2. I wished to write a paper which should touch the national pride, and make a man feel sheepish and look silly who should speak of disunion."



Everything that contributed to the strengthening of the national feeling necessarily made the Union firmer, and everything that increased the national pride strengthened the national feeling. Leaving, therefore, his supposed personal motives out of consideration, Webster's calculation must have seemed correct, although scarcely any one could have denied that, with the blows dealt Austria, he had also intended, to strike the radicals of both camps who were intentionally and unintentionally undermining the foundations of the Union. The effect of the letter on Hülsemaun was to inflame him. If on so insignificant a provocation as the grievance caused by Mann's mission, so abrupt an answer was given to England, there were probably among those specially interested in undisturbed good feeling, timid people who would have wished for more moderate language. But as Austria could fight against the United States only with words, the satisfaction was general, that it had been made such short work of. Webster was to a much smaller extent the mover here than the moved. The national pride did not need to be awakened by him; it was already so great that he, on this occasion, gave expression to it in a way which was in harmony with the general feeling, but did not correspond with his habit at other times. And what people on earth would, under analogous circumstances, not have swelled with pride at the contemplation of itself! However the merit of it might be divided between the cleverness of the people and the natural advantages of the country, the fact was there, that the development of the state and people was a really wonderful one, and that there was nothing to be found in the history of the world that could, even remotely, be compared with it. It may not have been in good taste to talk continually of the "young giant," but the picture was a true one. Only it should have been borne in mind



better, that the comparison could be made in respect to more things than one. The rapidity with which the bones and muscles of the giant grew beyond all measure, must have excited astonishment, and might, perhaps, awaken fears in the rest of the civilized world; but what had availed the giant himself most, might, because of his youth, be a wise lesson and warning to foresee what use he would make of his powerful members. It must have been expected that, from vain awkwardness, he would be injured by them. But now, when men like Webster, who had hitherto so correctly distinguished between justifiable self-consciousness and exaggerated and ridiculous patriotism, made the giant show his arms and legs to the world, the natural inclination to the over-courageous demonstration of one's strength, might easily be excited to a dangerous degree. And who guaranteed that it would not be led into a direction diametrically opposed to the real welfare of the people?

This possibility Webster had left entirely out of consideration, and hence his calculation threatened to produce a result very remote from what he wished. The self-respect which had been disfigured into self-admiration awakened an impulse to put other people's houses in order, while the force at his command did not at all suffice to purify his own. The desire to partake in foreign missionary labor became more and more a justification for not interfering with the most painful and dangerous mischief at home, and without the masses having become aware of it, the missionary labor was transformed into a systematic aggravation of that mischief, and the evils at home grew in magnitude. The ambition of politicians without principle and the passions of the slavocracy driven into a corner, spite of its constant victories, labored with impetuous energy to undermine the conservative sense which a

democratic republic needs more than any other form of the state. People did not wait until the last great representatives of the phase of development whose beginning was the second war with England had sunk into the grave. With impatient haste, it was sought to set them aside, and it was declared with presumptuous depreciation of them that their whole way of thinking was one which had happily been outlived. The era of tacking and shifting which preferred to advance slowly in a ziz-zag line than to risk shipwreck by too little forbearance towards opposite views and interests, was to be forever closed, and the goal to be steered for directly under full sails; whoever or whatever opposed it, did so at his own risk. With the cry of Progress, the reaction set in which sought, under the command of the unlimited right of self-determination, to throw down the last barriers in the way of slavery.

The fate of the Hungarian patriots afforded an opportunity to the United States to oppose its own political system to that which had again obtained supremacy in Europe. The sultan, by his refusal to surrender the fugitives, had become a very popular man in the United States. He did not lose its good opinion, even when he denied the request of the United States to allow them to emigrate to the new world in an American war vessel, because the refusal was ascribed to the promise he had made to Austria to keep them safely confined in the interior of the country for a year. As this term had now nearly elapsed, Foote, on the 17th of February, 1851, moved a joint resolution which empowered the president to send a ship to the Mediterranean, in order to bring Kossuth and his companions to America. On the 26th of February, the senate adopted the resolution in an amended form.<sup>1</sup> The

<sup>1</sup> See the two resolutions, *Congr. Globe*, 2d Sess., 31st Congr., p. 710. The most material difference was that Foote called the fugitives



president was in such haste to comply with this wish, that he took the initiatory steps to carry it out, before the house of representatives had spoken. On the 28th of February George P. Marsh was instructed to renew the request to the sublime porte,<sup>1</sup> and on the 3rd of March Foote's resolution, as amended by Shields' motion, was adopted by the house also, without objection.

The message of the president, of the 2nd of December, conveyed the information that the porte had now granted the request of the United States, and that Kossuth and his companions had sailed on the "Mississippi" on the 10th of September. It must have been a matter of surprise that the message repeatedly gave him the title of "Governor Kossuth," while the resolution called him simply Louis Kossuth. It could scarcely be assumed that this change was made entirely without intention, since the message suggested that the president now looked upon the whole affair in a light different from that in which he had seen it a few months before, or that he did not then think it proper to express openly his views and purposes. The message recommended congress to consider in what manner the Hungarians should be received and treated.<sup>2</sup> This evidently aimed at a demonstration against the European continental powers, while Webster's instructions to Marsh had industriously endeavored to divest the request of the United States of all political significance, and to represent it as an act of pure humanity.<sup>3</sup> But when the federal legislature, at the instigation

"those expatriated champions of civil and religious liberty," while Shields was satisfied with designating them as "noble exiles."

<sup>1</sup> Webster's Works, VI., pp. 591-594.

<sup>2</sup> Statesman's Manual, III., p. 1930.

<sup>3</sup> " . . . A band of exiles, whose only future is a tearful remembrance of the past, whose only request is to spend their remaining days in obscure industry."



of the federal executive, gave the Hungarian patriots so demonstrative a reception, it was to be expected that the patriots, as Webster gave assurance through Marsh, would completely refrain from any further prosecution of their unsuccessful attempt.<sup>1</sup> It certainly could not be a matter of surprise, that they believed they could assume that a great power like the United States would not take such a step merely to give sensational expression to a feeling. No reproach, at least, could be made them, because they took the United States and themselves sufficiently in earnest, to suppose that a realistic political idea lay at the foundation of the drama they were playing. They might at least see, in the action of the United States, an authorization to look upon it not only as a personal asylum, but as free ground for the prosecution of their political designs, so long as these did not directly violate the international obligations of the Union. Disappointed and sanguine revolutionists could not be blamed that they went a step farther, and considered it as an assurance indirectly given them, so far as that was possible within the bounds of international law.

Webster and Fillmore had certainly not wished to be so understood, even if they did not take the almost harmlessly ingenuous attitude towards the case, in which Marsh was obliged to show them to the sublime porte. It may not be susceptible of proof, but it may be put down as probable that Kossuth and Hungary were, to only a very small extent, objects in themselves. The ex-dictator was right when he thought that not only was the

<sup>1</sup> "They themselves, by their desire to remove so far from the scene of their late conflict, declare that they entertain no hope or thought of other similar attempts, and wish only to be permitted to withdraw themselves altogether from all European association, and seek new homes in the vast regions of the United States."

production of an aimless exhibition intended; but it deeply pained his patriotism and grieved his vanity, when he recognized to what a degree he was to be used only as a means to an end with which his Hungary and Hungary's freedom had nothing to do. The patriotic and personal considerations which from the beginning of 1850 had determined Webster's entire action—and it will not be doubted that, in this question, he had the controlling voice in the policy of the administration—make it probable, that his principal object was to turn the attention of the people away from domestic affairs.

This surmise was further strengthened by the choice of the person whom Webster used as a spokesman in congress. On the very first day of the session, Foote announced that he intended to move a joint resolution in regard to the reception and entertainment of Louis Kosuth, governor of Hungary, in the United States.<sup>1</sup> He remarked, at the same time, that he was in this, to a certain extent, acting in accord with the administration and on the instigation of the secretary of state,<sup>2</sup> and gave expression to the expectation that the resolution would be unanimously adopted next morning. On the 2d of De-

<sup>1</sup> Congr. Globe, 1st Sess., 32d Congr., p. 5.

<sup>2</sup> On the 3rd of Dec. he added: "I should rather have desired some other gentleman to have moved in the matter, had not the worthy secretary of state (Mr. Webster) some days ago called my attention specially to the subject, informing me in advance what would be the recommendation of the president in regard to the point under consideration, and desiring me, as the mover of the original resolution of the last session, to offer to the senate a resolution substantially corresponding to the one now under consideration. It is under such promptings from a high Whig source, that a Democrat, inflexibly devoted to the principles of his party, conceived it proper that he should, to some extent, rise above mere party considerations, and co-operate with the administration of the country, for the time being, in this generous undertaking." *Ib.*, p. 23.



ember, immediately after the reading of the president's message, the formal motion followed. According to this, it might appear that the secretary of state and the senator from Mississippi considered as the most important, or at least as the most urgent, business of the federal legislature, the solemn reception of the "governor of Hungary," on his impending arrival, to assure him of the high esteem in which the people of the United States held him, and, in the name of congress and the people of the United States, to offer him the hospitality of the metropolis of the Union.

Although Foote expressed his conviction that the resolution would fail of its object if it were not immediately adopted, Underwood of Kentucky had the heart to demand the postponement of the second reading of the resolution to the next day. Foote might have seen an evil omen in this, but was content with again expressing the hope, on the 3rd of December, in a few words, that the resolution would be immediately adopted unanimously. Instead of yielding to this wish, the senate began as thorough a debate as if there was question of a political problem of the first rank. Dawson of Georgia opened the debate, in which, while paying a compliment to Kossuth, he developed the view that the great Hungarian had been already sufficiently honored, and that the government should now leave him to the sympathy and hospitality of the public. He was followed by Hale, who desired to remove Dawson's objection that the resolution pointed directly to Kossuth personally, by an amendment which gave expression to the desire of the United States, to see the rights of the oppressed of every people and every government respected. Thus was realized Webster's wish to turn the attention of the people from the exciting and humiliating struggles on the slavery question to the



enthusiasm-inspiring struggles for freedom in Europe. The debate had not lasted five minutes when the heroic deeds of Kossuth were dropped for the discussion of slavery. Webster should have considered sooner that, in view of the unnatural condition of things in the United States, Echo gave back the word slavery whenever the word freedom was spoken.

Foote now naturally opened wide the flood-gates of his eloquence. In a stentorian voice, he cried out: "There has been only one Washington and there is only one Kossuth!" Dawson did not allow himself to be silenced by noise. He placed Foote in an awkward position, interrupting the eulogium on Kossuth's military greatness, by coolly asking the name of the battle in which Kossuth had distinguished himself. Foote, in his zeal, forgot that he was attacked simultaneously before and behind. He threw himself with so much violence on one of his opponents, that he left himself entirely unguarded against the blows of the other. With the high-stilted pathos of the southern politician, Foote declaimed before Dawson on the struggle between freedom and despotism, which stirred the whole world, and asked him on which side the United States should place itself. But when he thoughtlessly substituted "slavery" for "despotism" and exclaimed that the man who was not for freedom was for slavery, Hale interjected a cool "Entirely right."

A thorough discussion of the question, how the action of the people of the United States themselves harmonized with their criticism of the affairs of other people, made with so much ostentatious self-righteousness, could no longer be avoided now. And Foote had no right to reproach Hale with drawing into the debate things which had nothing to do with the question before them. He had himself stated with indignation, that on the part of the

south the two things were connected with each other, but of course in an opposed sense.<sup>1</sup> This admission from the mouth of a fanatical slavocrat, that people feared to allow the fiery Hungarian revolutionist to give a sample of his eloquence on the subject of freedom, in the domain of slavery, must not be lost sight of, if we would rightly estimate the merit of the greater sobriety which a part of the politicians of the southern states displayed in their judgment of the Kossuth question. That Foote was rightly informed was proved by the fact that, of all the southern cities, New Orleans was the only one that permitted itself to send an invitation to the Magyars.<sup>2</sup> And while a part of the slavocrats might not have wished to hear the word freedom from his mouth, on their own soil, the two most decided and incisive opponents of slavery in the senate warned him not to mention the word slavery either in the north or south.<sup>3</sup> Certain as it was that Sumner, who made his debut in the senate in a Kossuth speech, and Seward were in deep earnest in the struggle for freedom, and certain as it was that they did not want to make use of the Kossuth enthusiasm for the prosecution

<sup>1</sup> "I discover in certain quarters that hints have already been given, that it would be a dangerous thing for Kossuth to be allowed to come to this country and deliver such bold and soul-stirring harangues in favor of the great principles of which he is the champion, from the fear that his eloquence might have the effect of unduly liberalizing the minds of the people of America, and might impart a still more republican cast to the minds of the thinking millions of this country." *l. c.*

<sup>2</sup> F. Pulszky, *Meine Zeit, Mein Leben*, III., p. 128. Pulszky writes: "At first I came in contact [in New Orleans] with the English [i. e. Anglo-Americans]; these sympathized with Kossuth much less than the English of the northern states, for they felt that every struggle for freedom, and every extension of the idea of freedom, smoothed the way for the abolition of slavery." *Ib.*, III., p. 133.

<sup>3</sup> *Ib.*, III., p. 97.

of secondary aims which shunned the light, this politically wise warning betrayed the fact that, notwithstanding the honesty of their own views, they could not entirely conceal from themselves that the demonstrative glorification of the Hungarian heroes was mixed up with an element of interestedness and pharisaism.

The combination of these two facts is one of the two elements which make Kossuth's role as a guest in the United States one of the most significant events in the history of the development of the American democracy. What besides this was said for and against his solemn reception by the United States, is of no interest now, and even then had no real importance, although the question stirred up a great deal of dust. The entitling Kossuth "governor" in an official act of the federal legislature was a want of tact which could not add to the regard in which the United States was held, nor be productive of any advantage to Hungary or to freedom in general. To make Kossuth alone the subject of an official act of the federal authorities was mortifying to his companions and undemocratic. None of them could claim an equal place with him, but totally to ignore them was to become guilty once more of the hero-worship so frequently censured and which does not comport very well with genuine republican self-assertion. Finally, there was no occasion to show Kossuth an honor which had been accorded to no foreigner except Lafayette. In this way, expression was given not only to a highly uncritical over-estimation of his merits, but also of his importance as a historical figure. When it honored him in so exaggerated a manner, the United States did not honor itself, but it put its own light under a bushel, surrounding his head with a halo which did not become him. Those, therefore, were deserving of thanks who, without allowing themselves to be misled by



the indignation of certain circles, opposed the extravagant resolutions until they were modified in some points to such a degree that the reception amounted, after all, to the showing Kossuth and his companions a certain amount of politeness, destitute of all significance. And even to the other demonstrations scarcely more could be objected, than that they placed the taste and tact of certain personages in a doubtful light. Webster especially was reproached for not having sufficiently considered that even at an official dinner, in honor of Kossuth, he did not cease to be secretary of state of the United States, and hence that he violated the customs and sense of decency of all civilized countries in their international relations, when, in a long speech, he broke out into a response to the toast, the Independence of Hungary, i. e. to the disruption of a friendly power by a successful revolution. The right to one's own opinion does not suppose the right to mortify and insult others.

If Webster believed that he might go so far to help public opinion in the United States to its legitimate influence in European affairs, it could not be a matter of surprise that others wished to go a long step farther. Kossuth had already given the lie in England to Webster's assurances, that he and his companions considered their political career closed forever, and, according to Metternich's expression, now desired nothing more than to cultivate their cabbage patch in peace. He had there, in his public speeches declared, without reserve, that he intended, in the United States, to labor to the end that the great republic and England should unite in the interest of oppressed peoples against their absolute governments. Hence it should not surprise any one, that he introduced himself into the United States with the assertion that the intercession in his favor was looked upon by the whole world as an an-

nouncement that, it was resolved, henceforth to give its support to nations struggling for freedom.<sup>1</sup> When Foote, in consequence of the opposition he had met with, withdrew his resolutions, Kossuth took the liberty of giving congress to understand how great was his displeasure.<sup>2</sup> In his opinion, congress was evidently obliged to give him its arm because it had extended its hand to him, that is congress had, by his liberation, obligated itself, at least morally, to support his agitation. But as he had at first no reason to believe that the people, too, would assume the unexpectedly reserved attitude of congress, he continued with undiminished energy and boldness, to manipulate public opinion for his own ends. An "authorized" declaration, indeed, appeared in the newspapers, in which it was denied that he had ever intended to labor towards a "forcible" intervention by the United States in foreign affairs. Rather did he defend the inviolability of the principle of non-intervention. His endeavors were directed, he said, only towards this, that the United States and England should not only respect that principle themselves, but might cause all other powers to respect it. The example furnished by France in the war for independence

<sup>1</sup> "The motive (for his presence in the United States), citizens, is that your generous act of my liberation has raised the conviction throughout the civilized world that this generous act of yours is but the manifestation of your resolution to throw your weight into the balance where the fate of the European continent is to be weighed. You have raised the conviction throughout the world, that by my liberation you were willing to say, 'Ye oppressed nations of old Europe's continent, be of good cheer; the young giant of America stretches his powerful arm over the waves, ready to give a brother's hand to your future.' So is your act interpreted throughout the world."

<sup>2</sup> "Had I known that in the same place, where I was invited to this country by an act of congress, the same body would now decline to bid me a welcome, I would have thought that I was not a welcome guest."



of England's American colonies, should now be imitated, not according to the letter, but to the spirit, by the United States.

This sounded very well, but was not saying much. Everything depended on what was meant by the entirely indefinite expression, "to cause." The commentary afforded by the speeches and other expressions of Kossuth, on the authorized declaration were pervaded throughout by a certain vagueness, but still they were clear enough not to make a harmless interpretation of the words, "to cause," at all permissible. Immediately on his arrival in New York, an orator had declared that the public opinion of the United States, and especially the militia, cherished the great doctrine of Kossuth, of armed non-intervention. To this Kossuth answered that if the principle of non-intervention was understood in this sense, he was relieved of great anxiety.<sup>1</sup> And on subsequent occasions he frankly said that the independence of Hungary was still his aim, and he requested the financial, material and political assistance of the American people for the attainment of this end.<sup>2</sup> He publicly announced that he desired to

"The reception I have already experienced relieves me from much anxiety. If the doctrine of non-intervention is understood, as you state, then the generous and efficient aid of the United States to my country's suffering independence is gained."

<sup>2</sup> "It is hence that my liberation was cheered, from Sweden down to Portugal, as a ray of hope. It is hence that even those nations which most desire my presence in Europe now, have unanimously told me, 'Hasten on, hasten on to the great, free, rich, and powerful people of the United States, and bring over its brotherly aid to the cause of your country, so intimately connected with European liberty.'

"And taking my ground on this principle of union, which I find lawfully existing, an established constitutional fact, it is not to a party, but to the united people of the United States that I confidently will address my humble requests for aid and protection to oppressed humanity. I will conscientiously respect your laws, but within the



negotiate a Hungarian loan, and, on the occasion of a militia parade, he told the brave citizen soldiers that it now depended on them to put an end to despotism in the world.<sup>1</sup>

This bold agitation was received extensively with lively approbation. The enthusiasm for Kossuth degenerated to a great extent into Kossuth-vertigo and Kossuth-intoxication. Even people belonging to the most cultured strata of society, entirely forgot what they owed themselves and their country and what the rules of decency demanded. At a dinner, in New York, given in honor of Kossuth—to mention only one instance—a highly respected judge was cried down in a most insulting manner, because he made bold, in opposition to the foreigners, to come forward in favor of the traditional policy of the United States, which, in principle, so far as European affairs were concerned, did not go beyond the role of the spectator who took no part in them. But the presumptuous regardlessness with which Kossuth promoted his cause, and the inconsiderate jubilation with which a large part of the most influential classes of the population promoted his undertaking, caused the reaction to set in quicker and more powerfully than would have happened if Kossuth and his American admirers had acted with caution and more

limits of your laws I will use every honest exertion to gain your operative sympathy, and your financial, material, and political aid for my country's freedom and independence, and entreat the realization of these hopes which your generosity has raised in me and my people's breasts, and also in the breasts of Europe's oppressed nations. And, therefore, thirdly, I beg leave frankly to state that my aim is to restore my fatherland to the full enjoyment of that act of declaration of independence, which being the only rightful existing public law of my nation."

<sup>1</sup> "Oh, God! how my heart throbs at the idea to see this gallant army enlisted on the side of freedom against despotism; the world would be free, and you the saviors of humanity."

moderation. Kossuth would not, under any circumstances, have won his game, but it was owing to their excesses that a few weeks sufficed for it to be lost. The disposition of public opinion was in an extraordinary degree calculated to carry it on, for a long time, with an apparent prospect of final success.

The moment the more sober and conservative manifested some alarm at the character of the agitation, Kossuth and his partisans gave the assurance that they had never thought of an armed intervention of the United States. It was certainly true that they had not allowed themselves to be carried away to that extent by their wishes and their fancy. But that they desired to draw the United States over and beyond the line which it had never yet passed, in regard to domestic European questions, could not be denied and was not questioned by them. They did not wish to be satisfied with this, that the people, that is the masses of politically irresponsible individuals, gave strong expression to their sympathies for the Hungarian revolutionists; they wanted the government to take a position in the struggle between these and the despots, more decided and more direct than it had ever before taken in a European question. In accordance with the principle of non-intervention, they did not claim the right to interfere in the affairs of Hungary and Austria. Simply on the basis of international law, the United States, in their opinion, was authorized and called on, to make the question the subject of official political action. They objected to the interference of Russia, by representing that non-intervention was a principle of international law. The United States was, of course, free to labor with all its strength for the incorporation of that principle into international law. There was question now not of a pious wish but of action. But it was an incontestable fact, that the many investiga-



tions of the principle had never led to an undisputed result and that the European powers had, in every concrete case, come to their decision in accordance with political considerations on the basis of their presumed or real interests. In the face of this fact, Seward, on the 20th of January, 1850, introduced a joint resolution which is resumed in these few sentences: In the defence of its own interests and of the common interests of humanity, the United States solemnly protest against the course of Russia on that occasion, as a wanton and tyrannical breach of international law; and the United States further declares that in future it will not be indifferent to such acts of national injustice, oppression and usurpation, whenever and wherever they may be committed.<sup>1</sup>

If the last sentence was not an entirely vain boast, intended only to tickle the national vanity—and the personality of the mover excluded this assumption—it could be looked upon only as a threat. And if it contained a threat, it was the announcement of a breach in principle with the policy which the United States, in accordance with the admonitions and warnings of Washington, had hitherto inviolably followed. The United States, as the leading power of the new world in every respect, was unquestionably entitled and perhaps obliged to give an emphatic expression to what, in its opinion, international law in this question should be. But the first step beyond a mere expression of opinion, brought it in direct contact with the whirl of European politics, and no one was able to say, to what extent it would be drawn into the whirlpool of its own will or against it. It hereby surrendered the claim that the United States was politically as well as geographically a continent of its own, which European powers, so

<sup>1</sup> Congr. Globe, 1st Sess., 32d Congr., p. 310.



far as they had no well acquired rights in it, were obliged to let take its own course of development, as, on the other hand, the United States had never claimed or actually attempted to interfere in European affairs, so far as they did not directly touch its rights and material interests. But no one denied that this isolation from the labyrinthic politics of Europe, ever pregnant with conflict, had a very material share in the wonderful development of the United States. Until a very recent time, the advice of Washington above referred to, had been a political dogma, and even now its wisdom was so universally recognized that a great number of those who desired in one way or another, formally to protest against the interference of Russia in Hungary, contended with moral indignation that people, in this way, would be disregarding it. And yet, it was demonstrable, that it was the deviation from the principles of wise action that urged the players in the different parts of the political stage to raise such a noise now about the violation of the principle of non-intervention. No one whose utterances deserved the slightest consideration pretended to believe that the action or want of action of the United States could still exert any influence on the solution of the Hungarian question, if, indeed, there were any Hungarian question at the time. The resolutions of Seward and several other resolutions, which were moved by other members of congress, were like bills of exchange issued to the Hungarian patriots and to the liberals of Europe in general, in which neither the amount, nor the time of redemption was given. When such a bill would have been able to do them real service, and the possibility of redemption existed, it was not offered to them. The indignation at Russia's interference had required too much time, to break forth, if Hungary's oppression was not merely the pretext or at least the agreeable occasion taken

to give expression to a feeling which, independently of this concrete case, had been developed in the American people.

The position of the United States, as a great power, was still of too recent a date to allow the American people to overcome the weaknesses and defects of the parvenu, and their power was so great that a large part of them could not help feeling, that the old policy of isolation and neutrality was a restraining bond of which the young giant should free himself, because he did not need to carry it any longer. Under the rigid rein of its own special interests, the south felt itself least tempted to entertain this desire. In the northeast, where the highly developed economic life of the people, with its sensitive relations to the rest of the world, insured a certain sobriety of thought, the wish did not go beyond the want felt of reminding Europe, on a proper occasion, of the existence of the United States. In the west, on the other hand, the desire of aggrandizement had so far grown to be a passion, that the thought of the country's making its debut as the young Giant, in the drama of European politics, had really a great charm for it. The old political chiefs who had to preserve a national reputation and whose personal ambition was directed towards the highest round of the ladder, took care not to commit themselves so far as to lose their freedom to sail with any current they pleased. Cass, who had long been accustomed when there was any trouble with European powers, to beat an alarm, declared that no rational man could even dream of interposing by act in the Hungarian question. He only demanded a protest, in any appropriate form, and pointed with special emphasis to the fact, that the dignity and honor of the United States could, thereby, be in no way compromised, because it would still remain a question to be decided by political expediency, whether and to what extent, it would support



its words by deeds.<sup>1</sup> Douglas expressed himself much more incisively. He not only spoke in a challenging and haughty tone, but declared himself much more directly in favor of Kossuth's principle of armed non-intervention. But on the most essential point, his attitude was as reserved as that of Cass, although he knew how to give it a form which must have been more in harmony with the Chauvinistic instincts of the masses. He spoke like a statesman and rightly, when he said, that he must preserve full liberty, to decide, in every concrete case, whether the United States should actually apply that principle, but he, at the same time, laid stress on the fact that, unlike most of the other senators, he could not agree in the opinion that interference should never take place under any circumstances.<sup>2</sup>

The assurance of the two most distinguished politicians

<sup>1</sup> Congr. Globe, 1st Sess., 32d Congr., pp. 67, 68.

<sup>2</sup> "If another alliance shall be formed by the despots of Europe to destroy the last vestige of freedom that now remains, the question will then arise, what course interest, duty, and honor require us to pursue? We will have the right, under the law of nations, to interfere or not, according to our convictions of duty, when the case shall be presented. I will not say, as most senators have said, that in no event will I be for interference by this government. I will judge of the case when it arises. To say in advance that the United States will not interfere in vindication of the laws of nations, is to give our consent that Russia may interfere, in violation of the international code, to destroy the liberties of an independent nation. Such a declaration would afford as much encouragement to Russia and Austria in consummation of their work of blood and vengeance, as a similar declaration on a recent occasion (the Lopez expedition) did in instigating Spain to butcher American citizens without the form of trial, and in violation of treaty stipulations. I will make no such declaration. I will grant no such license to the absolute governments of Europe. On the other hand, I will not advise the declaration in advance that we will interfere. Such a declaration might be looked upon as a blustering, empty threat. I would make no declaration upon the subject either way until the proper occasion shall arise. I



of the west, that for the present no one thought of going beyond mere words, must have dissipated some alarm, in even the most anxious minds, lest the enthusiasm for Kosuth and the highly political debates it had given rise to in congress, might lead directly to grave differences with foreign powers. Serious as their speeches sounded, judged from the standpoint of realistic politics, they were only so much idle declamation, until the announcement came that they could no longer on principle recognize the maxims of Washington's Farewell Address as inviolable principles of American politics. This announcement was surely of immediate importance, but it was certain that among the inferior politicians there was a considerable number of people who would hasten to go a great way beyond this standpoint.

It has been at all times, and among all peoples, one of the greatest dangers of political life, that imitators, insignificant in themselves, have endeavored to attract attention and to obtain influence by blustering beyond their leaders the moment the latter have given utterance to a new thought to which public opinion seems to be favorable. Then, as a rule, it becomes apparent whether the leaders have a well-founded claim to the name of statesmen. If they have not, they are not able to call back their over-zealous following and to keep them within proper bounds, but are carried away and go even farther, of their own accord, for fear of otherwise losing the leadership. In the United States, this fear is peculiarly great, since it has grown so much easier to become a

would have this republic retain within herself the control over her own action, so that we may be in condition to do whatever our interests and duty may require when the time for action comes. I think this is the most dignified and imposing position our country can occupy." *Ib.*, p. 70.

party leader through the arts of the professional politician than by the qualities of the statesman. Considering the excitability and the enormous influence of public opinion, the temptation is great to achieve quick and easy triumphs by demagogically spurring it on; but it requires much moral courage and great intellectual superiority to lead it back to sobriety and keeping within measure when one has himself, by such means, been enticed into ways which issue in imposing but dangerous cliffs. But were Cass and especially Douglas men from whom it could have been expected, that they would remain masters of the situation, when the fire which their own republican views had kindled so willingly in common with their political antipodes, the Searsons, Sumners and Giddings, had spread farther? It became immediately manifest that it would not continue to burn quietly and without danger on the hearth to which they had confined it. In the house of representatives, Disney and Sweetzer of Ohio, and Stanton of Tennessee, had declared Washington's counsels to be no longer applicable; what was proper for the weak republic which had scarcely begun to live, was unbecoming and unnatural in the case of the great state whose future magnitude the most lively fancy could not picture to itself.<sup>1</sup> Walker of Wisconsin would not listen to such high-sounding and unmeaning half-way measures. The resolution regarding the welcome to Kossuth had received his vote only because he desired to see in it an actual breach with the foolish policy hitherto pursued. He said that he would have remained silent, if he had only words to offer to the Hungarians. He was ready to draw the sword for the freedom of Hungary, for it was the duty of the Union to stake the blood of the land, that a state

<sup>1</sup> *Ib.*, I., pp. 173, 177.



would never again presume to allow its cannons to interpose in the revolutions of other peoples.<sup>1</sup>

Kossuth should have attached no weight to such speeches. Hungary would have had nothing to hope for its cause from the Union, even if these speeches had been made by people much more influential, and had been received with more general approval, in congress. But, notwithstanding this, it would have been a great error to treat them as "speeches for buncombe." The importance of the speeches was not, in this instance, to be measured by the importance of the speakers. They were made not exclusively, nor even chiefly, for the immediate constituents of the gentlemen named, but were directed, in all seriousness, to the people of the United States, and they contained a frac-

<sup>1</sup> "I advocate them (the Kossuth resolutions) because I think I discover in them the initiatory step toward the abandonment of our now impolitic, unwise, and unjust system of neutrality. . . . Against such interference (as the interference of Russia in the Hungarian revolution) I would not only have our country protest, but I would have her interpose both her moral and physical power, whether in conjunction with England or alone. In this case we have the right to interpose, and I contend that justice, as well as our interest and security, makes it our duty to interpose. . . . I would now, or before another moon had waned, throw patent to the world a declaration that hereafter the practice, if not the policy of nations, must be 'hands off,' or non-intervention in the internal concerns or revolutions of other nations; and this declaration I would make good, too, when occasion should demand, by the blood and treasure of the land. . . . Sir, I repeat that if I had nothing but words to render in the service of Hungarian freedom, I would be silent. But I have more: I will not only speak for it, but I will vote for it—write for it; and when occasion shall demand, under the smile of heaven, I will fight for it." *Ib.*, pp. 105, 106. The resolutions which he moved the following day were more sober and moderate. The committee on foreign affairs were to be instructed to consider the expediency, first, of the formal declaration of non-intervention in the sense of the speaker, as a principle of international law, and, second, of negotiations with other constitutional states to induce them to join in that declaration and in the maintenance of the principle. *Ib.*, p. 111.



tion programme which people wanted to try to make a party programme, by turning the enthusiasm for Kossuth to account. If these gentlemen had undertaken, in full earnestness, to lead the foreign policy of the Union into new ways, and from vain, quixotic enthusiasm for certain principles, to draw it into European adventure, a shrug of the shoulders would have been enough to bring them to their senses. But in party politics, which with great shibboleths pursued, after all, only party interest, they were as much called upon to speak as other professional politicians. Yet the point of that programme was directed only apparently against the representatives and advocates of monarchical absolutism in Europe. Blows were aimed at European "despots," but intended for other groups in one's own party camp. Kossuth, Hungary and genuine republican feeling served as levers in president making. Even so far as these people are concerned, there is no reason for the assumption that they were playing comedy, but the sudden thrusting forward of the foreign policy of the country, on an occasion which had been for years removed from the order of the day of the world's politics, was not an end with them, but the means to an end. If it had not occurred to people to make this use of the European turmoil, the guests of the nation would have been saluted with hearty and unassumed sympathy, and there would have been no lack of eloquent speeches for freedom and against tyranny; but this sensation would, like every other, have spent itself in a few days. Simply because of its practical availability, was the theme whose elaboration the Hungarian exiles had caused, discussed with variations, long after the exiles had come to recognize that their fantastic expectations, spite of the sympathies of the people, would not be fulfilled. The only difference was that Hungary was now not spoken of so much.

With the exit of Kossuth and his companions from the stage, everything positive and concrete disappeared from the utterances of those who sought to keep up and extend the agitation. People spoke more and more universally of a new era, but the new era became more and more a formless and intangible mist. Minds were taken up and filled by a mighty thought, but that thought meant simply progress. To do something great, cost what it might, people were irrevocably resolved, but they could not tell what or how. By reason of this very vagueness, the programme became a real danger. If a definite end, and a definite means for the attainment of that end, had been designated, an appeal by the clearer-visioned and more sober to the common sense of the masses, would have left no ground for the agitators among the people. To institute a campaign against shadows was no easy thing, for blows aimed at shadows would necessarily be looked upon by most people as an aimless beating of the air. But precisely the shadowy nature of the game had a great charm for the masses, because it made the game entirely harmless in their eyes, while it, at the same time, impressed them and flattered their vanity. But if they took so much pleasure in the game that it began to become master of their fancy, the leaders must have been tempted to endow the shadow with reality, and it was by no means beyond the domain of the possible that they would be forced against their will to do this very thing, in order to maintain their position.

Kossuth enthusiasm was still at its height, when a fraction of the candidates for favor of the Democratic party appeared before the people with the frank announcement, that it was now a question of putting a man in the White House who was up to the times. Under the title "1852 and the Presidency," the January number of the *Demo-*



*cratic Review* had an article, which, in a challenging tone and one that excluded all contradiction, proclaimed "progress" to be the future party platform. With sovereign nonchalance the heroes who had grown grey in the service of the party were numbered among the dead. The question in the politics of the world must henceforth be reversed. Hitherto the only question was, whether freedom and republicanism could find a refuge anywhere from the assumptions of power of crowned tyrants. Henceforth, the question must be, whether the absolutism and despotism of the wearers of crowns should be suffered to exist anywhere. The United States were strong enough to produce this revolution in the political order of the world, for the peoples of the earth were its army. The old magnates of the party could not be equal to the tasks which the United States, in the service of humanity, had to fulfill, for they and their ideas belonged to a past generation, in which they had used up their strength. A man must be placed at the head of the nation who was filled with the great ideas of the present, who had the courage to take their realization in hand and the wisdom to do it with success. Whence this man was to be taken was a matter of indifference, but Young America expected of the Baltimore convention that it would know where to find him.<sup>1</sup>

<sup>1</sup> "In every land of Europe, from the Atlantic shore to the Turkish confines, the United States have a more numerous, more chivalrous, and more powerful army than the monarchic and absolutist tyrants of the people—it is the people—it is the two hundred and fifty millions of suffering humanity, to whose ideas the United States is a heaven beyond the setting sun, who dream in gladsome ecstasy of the day when our flag shall be unfurled, or even our nod, earth-shaking as the nod of Jove, shall be given for the liberation of nations. . . . But we have reached times when Quaker policy will not do for the republic. The time has come for strong, sturdy, clear-headed, and honest men to act; and the republic must have them, should it be compelled, as the colonies were in 1776, to drag the hero of the time out of a hole



The self-consciousness of "Young America" was sufficiently awake to believe that it considered the possibility of finding such a person, a matter of course, if it pleased it, in the unerring wisdom of the free sovereign people, to show the want with emphasis. But it did not even remotely enter into its mind to desire to send the Baltimore convention in search of him. The *Democratic Review* did not need to name a name, because every one knew under whose auspices the fraction represented by it wished to open the new era. People were not deluded by the decision with which the periodical dismissed all personal considerations and ambitions, into the belief that, in its calculation, the presidential candidate referred to,

in a wild forest, whether in Virginia or the illimitable west. . . . We must transfer the field of war to the soil of Europe, and change the issue, from a contest whether monarchs shall beard us here, to a contest whether they and their impious practices shall for an hour longer be tolerated there. . . . But such a result can only be expected from a Democratic administration, and one more progressive than we have hitherto been content with. To wield such a power with such enormous results, the presidential chair must be filled by a man not of the last generation, but of this, of the very time in which we live. . . . The statesmen of a previous generation, with their personal antipathies and their personal claims, with personal greatness or personal inefficiency, must get out of the way. . . . Age is to be honored, but senility is pitiable, especially when it leads its possessor to practices at variance with his former life — especially when it leads a Democrat of formerly commendable repute to expect the friendship of the south, and at the same time hope to conceal his delinquencies with the Van Burenites. And if there be some others of the gentlemen of the past age who can show clean hands on this subject, they will be found to be men incapable of grasping the difficulties of the present time, of fathoming its ideas, or controlling its policy. At all events, they have been in office, and have had the control of the destinies of the country and of the party. It was in their power to do good, but by lack of statesmanship, lack of temper, lack of discretion, and, most of all, by lack of progress, they brought into our ranks discord and dissension, and the party they received united, strong, and far in advance, they left a wreck, a mutinous wreck,

was an unknown quantity; nor did they dread the war, for which, according to its demand, the new president should be ready to see break out, if their candidate were elected. Spite of this, the article created a very great sensation. This was partly to be ascribed to the surprise caused by seeing the presidential campaign opened on a question of foreign affairs; for, a few weeks before, not a soul had thought of this possibility, and since then nothing had happened to give even a half-way rational cause for it. Much more serious consideration was given to the circumstance that this unexpected manœuvre had been carried out in a way which might cause great differences in the Democratic party. That the politicians of the progressive party dared to make this move against their own party

struggling in the slough of questions settled by the federal compact of the United States. . . . To recapitulate: the Democratic nominee for '52 must, therefore, not be trammelled with ideas belonging to an anterior era, or a man of merely local fame and local affections, but a statesman who can bring young blood, young ideas, and young hearts to the councils of the republic. Your mere general, whether he can write on his card the battle-fields of Mexico, or more heroically boast of his prowess in a militia review; your mere lawyer, trained in the quiddities of the court, but without a political idea beyond a local election; your mere wire-puller and 'judicious bottle-holder,' who claims preëminence now on the sole ground that he once played second fiddle to better men, and who cozens himself in his corner with the idea that he can split votes with the abolition and sectional factions he has intrigued with; and, above all, your beaten horse, whether he ran for a previous presidential cup, as first or second, or nowhere at all on the ticket—none of these will do. The Democratic party expects from the Baltimore convention a new man, a statesman of sound Democratic pluck, and world-wide ideas to use it on; . . . a bold man, who can stand the brunt of foreign war, and maintain, by the vigor and reach of his councils, the honor of our flag, whether on the land or the sea; and yet, a man astute and wise as Cato, who can, by the use of foreign material, save our shores from attack, and crush the despots of the world in their very dens. . . . Let the Baltimore convention give to this, the young generation of America, a candidate, and we are content."

comrades, proved, that, in their opinion, the compromise of 1850, had really put everything sufficiently safely on the old track, to permit them again to make the political machine the determining element. From the choice of the pretext under which they sought to get hold of the direction of the political machine, it became evident that it was impossible to find a viable political question outside of the affairs which purported to have been forever settled by the compromise.

Kossuth had repeatedly asserted in public that he did not wish to mix himself up in any way in the domestic affairs of the United States, and he had kept his promise. But yet, the only positive result of his meteoric appearance in America, was that, from two opposite sides, it threw a glaring light on the internal affairs, a light whose rays met in the focus of American politics, the slavery question, which in accordance with the unanimous wish of all parties, he had absolutely ignored.



## CHAPTER III.

## THE "FINALITY OF THE COMPROMISE."

The history of the second half of Fillmore's administration is one of the numerous proofs afforded by the history of the United States, that a free and a parliamentary government are not, as we would be led to believe by the expressions of many European politicians, identical ideas. A free system of government cannot well be denied to the democratic republic, and yet its constitution knows nothing of parliamentarianism. It is by no means an unusual phenomenon to see the executive and legislative powers, or at least one branch of the latter, belong to different parties; and the so-called cabinet has at least no official parliamentary connection with the legislative power. There was now a Whig president in the White House and the Democrats had a majority in both houses of congress. In the house of representatives, in which it is presumed, the present feeling of the people finds more accurate expression, at least at the beginning of the legislative period, the Democratic majority was oppressive.<sup>1</sup> Hence no measures of a decidedly party character, to which the co-operation of the two factors of the government was necessary, could be passed during this period of the legislature. But it by no means followed necessarily from

<sup>1</sup> According to the calculation of the *New York Tribune* of Dec. 1, 1851, 142 Democrats against 86 Whigs and 2 "distinctive Freesoilers." In the senate, 34 Democrats (but among them was Chase), 24 Whigs and 2 Freesoilers (Hale and Sumner).

this, that it would have to remain entirely sterile. And still less could it be assumed that, as in Taylor's time, it would be taken up solely with useless contention between the president and congress. Although Fillmore's attitude in the compromise struggle had greatly displeased a part of the Whigs, a breach between the party and its official head was not to be feared; and this same reason gave the Democrats a sufficient guarantee that in no question of overshadowing importance would he forget the country for party. As the atmosphere in which Jackson lived was strife, so Fillmore was by temperament and conviction a man who saw the foundation of the art of politics and pure patriotism, under all circumstances, in arbitration and mediation. That Webster turned to Foote with the request to take the initiative in regard to the reception of Kossuth, allowed people to recognize that the Democrats themselves, in more indifferent matters, could reckon on an amiable reception from the president. And this attitude of Fillmore was entirely in keeping with the actual circumstances of the time, since the opposition of the two parties had long been essentially only an official one, without any real basis but the desire of supremacy.

A new "Era of good Feeling" was certainly not to be expected on this account. Even before the formal opening of the session, contention had broken out among the members of congress, but not in respect to a great and reckless campaign of the Democratic majority against the administration. Within both parties, a struggle had been begun on the same question, the only question of which both the president and congress had formally and emphatically declared, that it had been buried forever. And in both parties, the only question was, whether that same assurance should now be repeated in a solemn manner.

On the 1st of December, even before the house had



come to an election of a speaker, Brooks, of New York, announced—for the benefit of the Democrats, as he said—that the Whigs had settled their internal quarrels, and were now one. In the morning, they had held a caucus and adopted a resolution by which they unreservedly placed themselves on the ground of the compromise of 1850.<sup>1</sup> That the real drift of the caucus transactions, could not be kept secret, Brooks, of course, knew well enough, and for that very reason, evidently, he assumed so triumphant an appearance in order to weaken the impression which a judgment more in keeping with the facts would make. An incidental question immediately drew from him the confession that only from fifty to sixty Whigs had appeared in the caucus, and he was obliged to listen to Fowler of Massachusetts, who was also one of the participants, when he said that there could not have been more than about forty present. Fowler said, moreover, that about one-third of those present voted that the resolution should be laid on the table. Whereas Brooks had claimed that now, nearly all the Whigs stood on the platform of the compromise, the Democrat, Meade, of Virginia, inferred from all this, that the resolution should not at all be looked upon as the real expression of the opinion of the Whigs of the northern states, since it was the work of the Whigs of the southern states only, whom a small part of their colleagues from the northern states had joined. And besides, these had, as Cabell of Florida stated, acted under the pressure of the threat, that all the southern Whigs would have left the caucus and separated from the party, if it did not place itself on this “national basis.” Meade

<sup>1</sup> The resolution characterizes the compromise laws “as a final settlement, in principle and substance, of the dangerous and exciting subjects which they embrace.”



called the adoption of the resolution a ruse, and declared that the south would not allow itself to be hoodwinked by the trick.

This criticism could not be weakened, but the Whigs who approved the course of the caucus had an answer which made the account even. The Democrats had already, on the 29th of November, held a caucus, in which a similar resolution was moved and laid on the table. When this was held up to them, they claimed that they had acted so because the question did not properly come before the caucus, but had to be settled directly by the people, that is by the national convention. As a matter of course, the Whigs were as far from accepting this declaration, as the Democrats were Brooks's interpretation of the proceedings in the Whig caucus. If the Democratic members of congress had been of one opinion on this question, no one would have raised that objection; rather would the caucus have hastened with the greatest emphasis possible, to give the watchword to the party in order, without delay, to insure to it the advantages which might be reaped from its unanimity in contrast with the discord of the Whigs. As Brooks had been belied by Fowler so a Democratic or rather a Whig renegade was immediately found who characterized Meade's declaration as it really was. Cabell, who had previously separated himself from the Whigs, because of their attitude towards the compromise struggle, announced that he would henceforth go with them because they had done what the Democrats had refused to do. The Democrats were a unit only in one thing, to do nothing that could imperil the distribution of the spoils.<sup>1</sup> This crimination and recrimination were

<sup>1</sup> "The resolution approving of the compromise was laid on the table, because it was not the time to adopt it; it was not politic to adopt it at this time. It might interfere with their organization, and

made very spicy by the fact that the debaters quarrelled over the question, which party had the greater merit for the passage of the Fugitive Slave Law. Giddings summed up what was material in the long controversy, by congratulating the president and his secretary of state, that their peace measures had so successfully put an end to all agitation.

The complement to this instructive scene was played in the senate. On the 2nd of December, Foote announced a resolution, in which the compromise laws were recognized as the final settlement of the controversies growing out of slavery.<sup>1</sup> On the 8th of December, Foote opened the discussion by expressing the hope that the senate would immediately adopt the resolutions. It required the sanguine temperament of the Mississippian to harbor this expectation, under any circumstances. But coming from his mouth, it had the character of a bold challenge, as a few minutes later, he read a series of resolutions which had been voted by his state, to support his views. Secession as a constitutional right was, indeed, unconditionally rejected in these resolutions,<sup>2</sup> but it was, at the

defeat a Democratic speaker or clerk. Thus, the southern Democrats are doing the very thing that we have been denounced for doing. . . . We see Union Democrats and disunion Democrats, Old Hunkers and Barnburners, Free-Soil Democrats and Southern Rights Democrats, everybody of all sorts from the north and from the south, who will come into the Democratic caucus, all acting harmoniously together for the sake of dividing the spoils, but all studiously absolved from expressing their opinions on these important questions." *Congr. Globe*, 1st Sess., 32d Congr., p. 9.

<sup>1</sup> *Ib.*, p. 12.

<sup>2</sup> Considering subsequent events, the wording of this resolution is of interest. "Resolved, further, fourth, That, in the opinion of this convention, the asserted right of secession from the Union, on the part of the state or states, is utterly unsanctioned by the federal constitution, which was framed to 'establish' and not to destroy the Union of



same time, claimed, that it would be justifiable, under certain circumstances, to resort to measures of resistance. Six cases which had direct reference to slavery were mentioned, in which the state would be compelled to take refuge in such measures. Among these, special stress was laid upon the following: any measure taken by congress in reference to slavery in the District of Columbia or other places subject to its jurisdiction, which were irreconcilable with the security and peace, the rights and the honor of the slave states; the refusal to admit a state into the Union because it permitted slavery; the prohibition of slavery in any territory, by a federal law; the repeal of the Fugitive Slave Law. The convention had not considered it necessary expressly to question the constitutionality of these measures, although their constitutionality was extensively denied in Mississippi, and, leaving the Slave Law out of consideration, the resolutions, in all the points mentioned, went far beyond the stipulations of the compromise of 1850. Foote, therefore, supported his demand that the compromise should be recognized as a final settlement, by the information that his state would refuse obedience to the federal authorities, the moment they allowed themselves to do certain acts in respect to slavery which lay outside the sphere described by the compromise laws. Was Foote so ingenuous that he did not recognize the contradiction which this involved, or did he credit the opponents of slavery themselves with so much ingenuousness? At all events, his speech proved the fact, that the controversies growing out of the slavery question had not been settled and that hence the resolution

the states, and that no secession can in fact take place, without a subversion of the Union established, and which will not virtually amount in its effects and consequences to a civil revolution."



was not only an objective and subjective untruth, but the actual recommencement of the agitation.

When Chase, on the 4th of December, had opposed Foote's wish that he should be shown special favor in the discussion of his resolution, the latter declared the resistance from such a quarter to be very flattering, and requested that it might be continued. In the tone of the model slave baron, he announced that this opposition would be trampled down. But now, Foote was opposed by a man who, even if he had not, like Foote, merited the nickname of the "hangman," was nevertheless just as proud an aristocrat and knight of the peculiar institution. Butler asked how his assent to such a declaration could be accepted, after he had always denounced the compromise laws as ruinous to the south.<sup>1</sup> Not by the "abolitionists," but by this leader of the southern radicals, was the reproach first made to Foote, that his pretended hymn of peace was in reality only a trumpet call to the north and south to renew the struggle.<sup>2</sup> That certainly was not Foote's intention, as even Butler admitted, but what answer could he give to the question, of what use in the world the reso-

<sup>1</sup> "Will the honorable gentleman tell me that our institutions are not in danger, when he tells us that the billows of the free-soil agitation are already beating upon the base of the constitution? When he tells me that our institutions are in danger from agitation of this kind, does he expect to give me security by having a vote in favor of measures which I have heretofore denounced and made war upon as our fathers made war on the alien and sedition laws, as long as I believed they had been framed in a spirit unfavorable and unfriendly to the rights and institutions of those whom I represent?" *Congr. Globe*, 1st Sess., 32d Congr., p. 36.

<sup>2</sup> "If the gentleman had been selecting motions to introduce, he could not have been more successful in introducing one to open former discussions, and to let loose upon this land the waters of agitation. I protest against this mode of proceeding as unusual, as unnecessary, and as—I will not say intended, because I shall not use

lution was. Either the compromise laws were bad, and then the resolution could not make them better, or they were good, and then, to say the least, the resolution was unnecessary. What new and increased authority, Butler inquired, could federal laws which had been made laws by the co-operation of the two houses of congress, acquire by a mere resolution of the senate? As no answer could be given to this question, Foote had recourse to a bold assertion. The resolution, he claimed, was almost indispensably necessary to the public peace and security, and then he threw himself upon his opponents instead of on their arguments, ascribing Butler's opposition to the grief he felt because Mississippi had disappointed South Carolina in regard to the project of secession.

This insinuation, whether well founded or not, did not prove anything, and the claim by which he wished to refute Butler was either wanting in actual foundation, or was the most annihilating refutation of the resolution. It was simply absurd to talk of a final settlement, when public peace and security imperatively demanded, that this legal settlement should be supported by a resolution of the senate, destitute of all binding authority. Even of the moral weight which such a formal expression of opinion by the senate might claim, there could, according to Foote's assertion, be no longer any question, since that expression was the most compromising of admissions. This, too, Foote was obliged to listen to from his own party comrades. The *Democratic Review* rightly called attention to the fact, that this anxious desire to be forever reminded of the correctness of one's own views, was the

any word of the kind—but the tendency of which will be to widen breaches which already exist, and to reach feelings that might perhaps have subsided under the influence of time or a better understanding among ourselves." I. c.



best means to awaken doubt as to that very correctness. And it further rightly said that the compromise laws should not have been a final settlement of the slavery question, but that they should only have set a limit to its agitation.<sup>1</sup> It forgot only to give an answer to the enigma, which was as old as the whole controversy, How, in the democratic republic, with its absolute freedom of speech and of the press, such a question should be ended, when the question itself, it was admitted, was not only not solved, but could not be solved.

The organ of "Young America," erred again, in a very essential respect. It declared that the north and west would not suffer the quarrel to be revived in this way.<sup>2</sup> Foote had not omitted to recall the fact, that the president

<sup>1</sup> "It is one of the silliest errors which can be committed in politics, to provoke doubt in the justice or stability of your own position, by continually requiring others to endorse it. The compromise measures of last session were a final adjustment, not of the 'slavery question,' which congress never can adjust, or even have any right to meddle with, but as a final adjustment of the 'slavery agitation.' . . . There matters should have, in common policy—might have, in perfect safety, ended. But it remained for General Foote, a southern Democrat, pledged to the principle that congress has no right to interfere, or even allude to the subject—returned, moreover, as senator to the federal legislature to prevent any such interference by that body in the institutions of the states; and, moreover, elected as governor of Mississippi for his consistent conduct during last congress in that respect—it remained for him, we say, to declare by his act the compromise measures not final, not irrevocable, to thrust the banished agitation again upon the senate of the United States; and to demand again an endorsement by it of the constitution, which none have questioned, of the rights of the south, which all have upheld, and of the honor of the northern Democratic party, which it is not fair, from what has passed, for any man to deny." *The Democratic Review*, Jan. 1852, p. 87.

<sup>2</sup> "The Democratic party of the north and west are determined not to permit this matter to be revived in congress by any party or individual." *Ib.*, p. 88.



had twice, in his messages, expressed himself in the sense of the resolutions, and laid stress on this, that he had introduced his motion only after mature deliberation with many other members of congress. From his point of view, he was perfectly entitled to speak disparagingly of Chase's opposition. The great majority of the politicians of both parties thought as he did, or they were, at least, resolved to act as if they so thought. Hence, from the first, there was no doubt, that he could trample down all opposition. The quarrel over the compromise continued, and even became more active, not for and against it, but as to whom it was due, and as to who meant honorably to stand by it. This controversy seemed the stranger, the more was learned of the secret history of the compromise, and the more clearly was recognized what the Union party of the south really meant by the "finality" of the compromise, on which it declared not only the welfare but the existence of the republic depended.

In his irritation at Butler's opposition, Foote brought to light a significant and compromising step in relation to the Fugitive Slave Law, to which he had already once referred. He related, that, at the beginning of the compromise session, at the instigation of Cass and other northern senators, he had asked Mason and Butler to introduce a fugitive slave bill, for which those who had imposed the task on him, had promised to vote, if it contained no unconstitutional provisions. The gentlemen mentioned had refused to accept the invitation, because, after the satisfactory solution of this question, it would be no longer possible, to move the border states to energetic joint action in favor of the rights and interests of the south. Butler tried repeatedly to explain away the assertion, but he did not directly question it, and Mason even admitted that Foote's recollection might be right. This was an eloquent

commentary on the unbearable injustice which the poor south had, as was alleged, to endure. How could an equitable settlement be expected when the leaders of a part of the southern states carried on their deliberations in this spirit and with so broad a conscience? The Free-Soil party could now appeal to those two defenders of the slavocracy, with their claim that people had again allowed themselves to be frightened into yielding too easily. But this occurrence proved better than all resolutions and explanations that either a part of the slaveholders did not care about a settlement at all, or that, at least, they would be satisfied only on condition they obtained everything which they considered of any importance. Nor did the gentleman make any secret of this. Butler had said that he now thought about the compromise precisely what he had thought about it before, and Rhett confessed himself a secessionist and said that the majority of the people of South Carolina shared his opinion.<sup>1</sup> And just as openly did he say, that, if his advice were followed, South Carolina would not wait for the other slave states until these had learned that both interest and honor, to an equal extent, forbade their remaining in the Union.<sup>2</sup> He had no reason whatever, like Jefferson Davis, to see, in his position, as United States senator, anything to hinder him from giving an unreserved exposition of his views, or from acting in accordance with them, since, in contra-

<sup>1</sup> "The people whom I represent, are, the greater part of them, I believe, secessionists—they are disunionists; and I hesitate not here to say, as a citizen of South Carolina and a senator, that, under the circumstances in which the south is now placed, I am a secessionist—a disunionist." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 43.

<sup>2</sup> "If the south cannot unite in making one common effort, let one state, if she has the courage and the power, do it, and, for good or evil, bravely dare the consequences. That is my counsel for the state I represent—my counsel for the south." *Ib.*, p. 47.



distinction to the Mississippi convention, he claimed secession to be a constitutional right, and called a right of revolution a contradiction in itself. He made the proof of this constitutional doctrine very easy. He used for that purpose the article on high treason, and twisted it by inserting words into it, into a proclamation of state sovereignty. He cited the clause in the following form: "Treason against the United States shall consist only in levying war against them (the states), or in adhering to their (the states') enemies, giving them aid and comfort," and then inferred from this reading that the crime of high treason could be committed only against the individual states. Whatever may have been Rhett's knowledge of constitutional law and the rules of legal construction, it was to be assumed, that a senator of the United States was acquainted with the elements of grammar and logic, and these were entirely sufficient to show the untenableness of this interpretation. The states were not even mentioned in the entire paragraph; it spoke only of the United States. To question, therefore, that the federal constitution, in this paragraph, spoke only of treason against the United States, was like denying the existence of the sun in the heavens. Hence the only doubt there could be, was, whether, in this case, the designation, United States, included also the individual states. But this assumption was not only not allowable by the general rules of construction and interpretation, but a positive historical proof of its inadmissibility could be adduced. In the preliminary draught made by the Philadelphia convention, there stood after "United States," the words, "or any of them;" but these words were stricken out by the convention without any one's taking exception thereto. From this it cannot, indeed, be directly inferred that, it was the intention of the framers of the



constitution to declare that the crime of treason could not be committed against a state. In respect to this question, the views of the convention were divided and it remained unsettled. All that was undoubtedly evident from the debate and its results, was, that the federal constitution was not acquainted with that crime. If its constitutional existence had to be admitted, it rested on the constitutions and laws of the individual states;<sup>1</sup> but if that were so, then nothing could be inferred from it in relation to the right of secession. And Rhett's reasoning was entirely vain, if, with Dr. Johnson, the possibility of treason against an individual state was questioned, because that crime could be committed only against the possessor of sovereignty.<sup>2</sup> And precisely here, Rhett agreed with him.

<sup>1</sup> The deductions in the text are to be understood in the sense, that the federal constitution has determined nothing, in an authoritative manner, in relation to high treason against the individual states. If their constitutions and laws define such an offence and declare in what it shall consist, the federal constitution in no way conflicts with such definition and declaration. Their power to do this is recognized in the extradition clause, Art. 10, Sect. 2, § 2: "A person charged in any state with treason," etc., which, in my opinion, can mean only "with treason against the state." But it is left entirely to the states to decide whether they will make use of the power, and in case they do make use of it to determine in what the crime shall consist. Hence, when it is said that the federal constitution is not acquainted with this crime, it is meant that it is not acquainted with it as a crime under the constitution.

<sup>2</sup> On the original form of the clause, Governor Morris said: "He was for giving to the Union an exclusive right to declare what should be treason. In case of a contest between the United States and a particular state, the people of the latter must, under the disjunctive terms of the clause, be traitors to one or the other authority."

Dr. Johnson: "That treason could not be both against the United States and individual states, being an offence against the sovereignty, which can be but one and the same community."

Madison: "That as the definition, here was of treason against the United States, it would seem that the individual states would be left

He did not infer the sovereignty and the right of secession of the states from the provision of the constitution, but because he asserted the sovereignty of the states and from that sovereignty deduced the right of secession, the provision of the constitution on treason must, according to him, contain the opposite of what it said with absolute clearness. Hence his argument was not of practical importance, but only the real starting point of his argument, that is the question of principle in issue, which since the origin of the Union had divided the people into two political camps. But on this fundamental question, he found himself in perfect agreement with the right wing of the states-rights party, the Union party of the southern states, under the leadership of Stephens and his companions. They too considered the states as sovereign in the full sense of the word, and claimed that the individual citizen owed allegiance to them alone. Their fidelity to the Union on the basis of the compromise policy, was, there-

in possession of a concurrent power so far as to define and punish treason, particularly against themselves, which might involve a double punishment."

When the words "or any of them" were stricken out, Madison said: "This has not removed the embarrassment. The same act might be against the United States, as now defined, and against a particular state according to its laws."

Ellsworth did not allow this. "There can be no danger to the government authority from this, as the laws of the United States are to be paramount."

Dr. Johnson roundly claimed: "There could be no treason against a particular state."

But Mason said: "The United States will have a qualified sovereignty only. The individual states will retain a part of the sovereignty. An act may be treason against a particular state which is not so against the United States."

Wilson thought: "In cases of a general nature, treason can only be against the United States; and in such they should have the sole right to declare the punishment of treason."



fore, only a question of expediency. A difference of principle—when the matter was sifted to the bottom—between them and secessionists, like Rhett, did not exist. They advanced more slowly, but they would necessarily arrive at the same goal if they eventually became the minority. There might be an honest difference of opinion as to whether this would happen. But that the radical minority were resolved to continue to press violently forward, was a fact which no resolutions and no speeches could do away with or even obscure. Leaving all the causes hitherto mentioned out of consideration, the foundations of the compromise proved so brittle that Foote had, indeed, good reason, to declare that it was necessary, on every occasion, to tell congress and the whole people, so to say, to swear to it. It was a finality which no one could trust from night till morning. The person who could not be convinced by what had hitherto been said, would surely have his eyes opened, when he saw the apostles of its finality obliged to confess that they meant only a finality on notice, without any time within which to give that notice.

On the 18th of December, Badger of North Carolina moved an amendment of Foote's resolution. Foote had bluntly demanded the recognition of the finality of the compromise. Badger, on the other hand, desired that congress should speak only for itself, but should only tie its hands until it had become convinced of the necessity of further legislation.<sup>1</sup> This provision was, even to the limitation of the declaration to congress, taken literally

<sup>1</sup> "A final settlement of the dangerous and exciting subjects which they embraced, and ought to be adhered to by congress until time and experience shall demonstrate the necessity of further legislation to guard against evasion or abuse." *Congr. Globe*, 1st Sess., 32d Congr., p. 125.



from the president's message.<sup>1</sup> Fillmore had discovered a happy formula for slavery, one which left it full freedom of action in regard to the compromise, while it endeavored to bind the opponents of slavery hand and foot, forever. Foote was very ready to appropriate this provision, since it expressed what he had intended his resolution to say. Sumner subsequently pointed out, what foolish assumption it was to wish to decree the eternity and immutability of an ordinary law, while the constitution itself could be altered at any moment, in accordance with changing circumstances.<sup>2</sup> Foote, too, had used this correct idea in the interest of the slavocracy, even before the introduction of Badger's resolution. Hale had asked him with what right he could still speak of the finality of the compromise after he had admitted that he would vote for the division of California into a free northern and a slaveholding southern state, if California wished for such a division. To this Foote answered, that California had the constitutional right to move its division into several states, which should then, of course, be received into the Union on an equal footing with the rest of the states, and that he could not place the compromise above the constitution. Hale pertinently replied, with the further question, by what right he, Foote, placed other parts of the compro-

<sup>1</sup> Statesman's Manual, III., p. 1946.

<sup>2</sup> "The wise fathers did not treat the country as a Chinese foot, never to grow after infancy; but, anticipating progress, they declared expressly that their great act is not final. According to the constitution itself, there is not one of its existing provisions—not even that with regard to fugitives from labor—which may not at all times be reached by amendment, and thus be drawn into debate. This is rational and just. Sir, nothing from man's hands, nor law, nor constitution, can be final. Truth alone is final.

"Inconsistent and absurd, this effort is tyrannical also." Congr. Globe, 1st Sess., 32d Congr., App., p. 1103.

mise above the constitution? The Fugitive Slave Law was an ordinary act of legislation. Had not a sovereign state the right to move that it should be again submitted to discussion? How then could congress be forbidden to take this wish into consideration, because it was laying hands on the compromise, while congress, spite of the same objection, was to be obliged to examine the wish of California referred to above, because the latter was entitled to give expression to that wish? And when Hale further claimed, that the south would never see in the compromise or its "finality" a hindrance to the acquisition of Cuba or any other slave territory, Foote coolly answered that his resolution did not contain a word about acquisitions of territory. Hale therefore was not uttering one of those witticisms which so frequently diminished the moral force of his blows at the slavocracy, but a bitter truth, when he said that the finality resolution, as it was understood by the slaveholders, meant: Resolved, that, whereas, the south has obtained everything which it has demanded, it will be satisfied until it needs something new; and when it needs something new it will take it.<sup>1</sup> The laughter which this remark provoked was the true answer of the slaveholders. The "finality" of the compromise was so downright a comedy, because, in the first place, a great part of the people were resolved, spite of all proofs to the contrary, to believe in the setting aside of the sectional quarrel, and because, in the second place, the majority of those in the south, who favored the compromise, had so far lost the ability to think logically on the slavery question, that they were really not conscious of the sophistry with which they wished to confine the binding force of the compromise to the points acceptable to the south.

<sup>1</sup> Congr. Globe, 1st Sess., 32d Congr., p. 117.



If people in Europe paid any attention to what was going on in the United States, their ideas of the political situation there, already so confused, and especially of party affairs, must have been very perplexed. How could they explain to themselves, that, while in the south the secessionist agitators had been beaten entirely out of the field, and while the radical opposition to the compromise in the north grew more and more silent, the legislators in Washington grew warmer over the question of strengthening the bargain anew. The whole country had again settled down into its every-day mood. People, indeed, now thought of the compromise just as they had thought of it before, but with the exception of evanescent minorities, all wished the facts might be taken as they were, in order that the economic life of the country, which was powerfully developing, might not be disturbed. But in congress, which correctly represented public opinion in this respect, the sterile idea of the finality declaration, became more and more the point about which the political contest turned. It, at the same time, became plainer and plainer, that the reason of this was not that people had become convinced by Foote of the necessity of the step for the preservation of public peace and security, but only because people thought that, in this way, they could serve the interests of party.

Accordingly a complete change of the situation, from what it had been at the beginning of the session, took place. For tactical reasons, the Democrats wheeled into the place of the Whigs, while the majority of the latter adopted the original tactics of the Democrats, and the almost equally strong minority gave the lie to Brooks's announcement, that the union of the Whigs had succeeded. The action of both parties was determined by the fact that, as Breckenridge plainly said,



they were wrangling among themselves.<sup>1</sup> Neither one nor the other party made even an attempt, by the putting forward of a new programme which contemplated the solution of real problems, to again strengthen the bonds which had been broken. Both recognized that their future depended on whether they could promise that they did not wish to recognize the slavery question any longer as a political problem. What a prospect for the future was opened by the absurdity that the two national parties wished to make their life depend on what was to be declared settled forever!

On the 1st of March, Fitch of Indiana moved a compromise resolution which, on account of its moderate and cautious wording, advantageously contrasted with the corresponding declarations in Fillmore's messages and the resolutions discussed in the senate.<sup>2</sup> The motion was not directly voted on, as the suspension of the rules, requested by Fitch, required a two-thirds majority, and out of 193 voters 74 had declared themselves against it. Of the Whigs, 37 had voted for and 36 against the suspension of the order of business. In the light of what took place in the first session, this must have been surprising, but an entirely certain conclusion could not be drawn from it, as the vote had been determined in part by considerations which had nothing to do with what was material in the question. Hence another opportunity was soon given them to acknowledge their colors. On the 22d of March,

<sup>1</sup> "It is well now to talk plainly—and it is as well to have these things understood in the beginning—we are all in trouble—Whigs and Democrats. There is no doubt about it; and why not say so?" (Laughter). *Congr. Globe*, 1st Sess., 32d Congr., App., p. 302.

<sup>2</sup> It condemned only all further agitation of questions connected with slavery, as unnecessary, useless and dangerous. Compare *Congr. Globe*, 1st Sess., 32d Congr., p. 659.

Jackson of Georgia again introduced the resolution.<sup>1</sup> Before the vote was taken, on the 5th of April, Hillyer, a southern Whig, moved an additional amendment declaring the compromise laws to be a final adjustment and permanent settlement of the questions therein embraced. The two parts of the motion as thus complemented were voted upon separately. The original resolution was adopted by 101 against 64 votes. Of the Democrats, 74 voted in the affirmative, and 33, of whom 22 belonged to the northern states, in the negative. Of the northern Whigs, only 7 voted for the resolution; 30 voted against it. Hillyer's amendment was adopted by 98 against 64 votes. In the opposition, the number of northern Democrats had fallen to 16, and the number of northern Whigs to 27, while the number of assenting northern Whigs had grown to 10. The great majority of the Democrats, who had justified their course in the caucus, by the assertion that it belonged to the national convention alone to define the position of the party on this question, now very willingly made the declaration it had then refused. Yet, in the vote on the decisive Hillyer amendment, the minority amounted to more than a third of all the Democratic votes, and more than a half of it (20) belonged to the slave states. There could, therefore, be no oneness in the party. The Whigs, on their side, called attention to the fact, that the Democrats, who now sought to make immense capital out of the resolution, owed its adoption only to the support of the southern Whigs. On the other hand, the Whigs had separated into two nearly equal geographical sections, and the overwhelming majority of the northern ones had refused to make a confession of faith in respect to the

<sup>1</sup> The only alteration was the insertion of a few words which the context itself suggested.



question of finality. Brooks endeavored to cast the responsibility for this on his party comrades, in the south, because the latter had not unanimously supported the nationally minded Whigs of the north.<sup>1</sup> This was literally, but only literally, correct. One southern Whig had voted both against Jackson's resolution and Hillyer's amendment. A worse shift than Brooks's could, therefore, be scarcely imagined. That Brooks had recourse to it, only showed that the prospect of mending the breach was very small. The Democrats could ride the war-horse of fidelity to the compromise all the more proudly and all the more confident of victory, although they had climbed into the saddle only with the assistance of the southern states.

This was the first important success that the Democrats gained over their opponents. Four months of the session had elapsed, and they had not known in any way how to turn their immense majority to account. From their own midst came the complaint, that they were treated with open scorn, that nothing could be done because a group was always found who, from interest, attached themselves to the administration. The necessary time was not found

<sup>1</sup> "But when there was a resolution introduced into this house, upon the part of the southern Whigs, a resolution to support the Whigs of the north, who were compromise national Whigs—and that resolution was introduced here by the honorable gentleman from Georgia, (Mr. Hillyer)—all our hearts wavered, because the southern Whig column wavered, and did not stand by us national Whigs; and the cry was of Napoleon at Waterloo, 'Take care of himself who can.' For, if the whole southern column would not stand by the northern conservative Whigs, it was useless to fight southern battles on northern ground. Hence, when the gentleman from Georgia (Mr. Hillyer) introduced his resolution here, the cry of every northern man was, 'Save himself who can.' So the record was reversed, and there were found but seven northern Whigs voting for the finality of the compromise." *Congr. Globe*, 1st Sess., 32d Congr., p. 1157.



either for the effective combatting of the enemy or for legitimate business, because too much attention was given to fruitless president-making. According to the constitution, the house of representatives would have had to busy itself with this matter, only in case the choice by electors had produced no result. But now the legislators acted as if it was not only a self-evident but a patriotic duty to postpone everything else to this question. An endless flood of long speeches on all possible candidates followed. One might have believed that there was question of calling "King Caucus" out of the grave, in which he had slept for a generation, and of again securing to congress the nomination of the party candidate, were it not that the speakers of the same party dragged one another about almost more roughly than they did their opponents. Breckenridge had asked whether the Democrats really believed, that the surest way out of their embarrassment was to morally kill all of the best men of the party and climb away over their corpses. He reproached the *Democratic Review*, with having given, in the article in its January number, already referred to, the example of suicidal tactics. And the new editorial policy which, in that number, declared the periodical to be the organ of "Young America" had evidently been adopted after mature consideration, for issue after issue continued with unabated energy to slaughter the magnates of its own party. One after the other was carped at and censured. Some were named, others referred to in such a form that no one could doubt who was meant. Douglas alone was spared.

The Democrats would scarcely have followed the bent of their inclinations, in their family quarrels, if, as one of the gentlemen expressed himself, the Democratic camp had not been so full that it would soon be no longer possible to find a place in it for converts. It is a great mis-

fortune for any political party, to see its opponents become so weak, that the possibility of their victory seems excluded. The Democrats felt themselves already so far freed from this salutary check, that they believed they might throw down all barriers of internal discipline, provided only that they united again, at the last moment, with the victorious fraction. And as their thoughts did not go beyond the next presidential election, their calculation was correct, for the dissolution of the opposed party made such rapid progress that it was on the verge of immediate, formal, and complete disruption.

The Whigs had been no less zealous than the Democrats in president-making. Their campaign speeches were distinguished from those of the Democrats only by this, that the personal element did not domineer in them to the same extent, or rather, that decisive importance was attached to the personal element not for its own sake, but for reasons which were deeper rooted. The contest, in the first place, was as to how far they should rely in the electoral battle on the personal popularity of the candidates. On the one hand, there were those who believed that only by the fullest turning to account of that element could victory be hoped for, and they, therefore, desired to try again the tactics which had already been employed twice by the party with the best success, to choose for their standard bearer as politically indifferent a person as they could, but one who, on account of his military reputation, filled a large place in the eyes of the masses. On the other hand, there were those who considered that this manœuvre had been worn out, and preferred to renounce the victory rather than win with a candidate regarding whose position on the slavery question, there was the least doubt. Neither fraction had anything to say in regard to the soundness of views and tried statesmanlike character



of the eventual president, so far as the old programme on which the party had had its origin and on which it had fought out all its great battles was concerned. It was silently admitted that this old programme could not now be artificially electrified into apparent life once more for the period of an electoral campaign. Of course, "the great Whig principles" were still in every one's mouth, but people refrained from precisely defining and specifying what they were. The persistency and binding force of the spoils, were the only bonds which still held the party together, and the majority of both fractions now seemed resolved not to sacrifice their convictions on the slavery question for their sake. The majority of the northern Whigs did not think of acting on the aggressive, but would still be satisfied if the question was passed over in silence.<sup>1</sup> But the known

<sup>1</sup> The Kennebec (Maine) *Journal* writes: "We ask no more of them (southern Whigs) in this case than we conceded to them in the election of 1848. We then accepted General Taylor as the Whig candidate, without requiring any pledge upon the subject of the Wil-mot proviso, and we now ask them to accept General Scott without requiring any pledge touching the compromise measures."

There were people in the south who were not only ready for this, because they claimed to be perfectly sure of Scott even without a promise, but who openly pleaded for the frivolous doctrine of 1848, that the only question was to secure votes, no matter what the voters thought. The Richmond *Whig* says: "The Richmond *Enquirer* is perfectly right in supposing that we have entire confidence in General Scott; and that having this confidence, we do not desire any pledges from him; and that we shall be very happy, if he is the Whig candidate, to see him receive the votes of Free Soilers and everybody else. The vote of our contemporary himself will be very welcome; it will be received with thanks, and no questions asked. At any rate, we should not fear that his vote for General Scott would taint the general with Democracy, any more than we should fear that the Free-Soil vote would make him a Free-Soiler. Satisfied with the soundness of our candidate, we wish him to get as many votes as possible. To use a piscatorial figure, everything will be fish that comes into our net.



views of their prescriptive leaders and the supposed influence they exercised on the candidates selected by them, convinced their southern party associates, that, if the party won under them, the idea of the south of the finality of the compromise would never have any practical consequences. Hence, a majority of the southern Whigs demanded that there should be an understanding on this question—so far as an understanding or explanation was contained in a “finality declaration”—before they bound themselves to follow the party behests. To this the former, for two reasons, did not wish to agree. Although they had no thought of resuming the agitation of the questions with which the compromise laws were concerned, they yet did not want, by such a declaration, to approve the compromise which they had so violently opposed, nor did they wish to render themselves incapable of action, in case public opinion in the north, should imperatively demand a modification of the Fugitive Slave Law; and in the second place, they feared that their compliance with the

“We repeat the declaration, too, that we would not vote for a man, whatever pledges he might make, if we did not have confidence in him without pledges. Any dirty demagogue will not hesitate to make pledges, which he will violate without scruple. We believe it may be set down as a universal principle, that a man who will make pledges to gain an office will not be restrained by those pledges when elected. A man’s life and actions and reputation constitute the best guarantee for the faithful discharge of public trusts.” *Ib.*, p. 422.

The sophistry of this argument was palpable. When the Free-Soilers and a certain fraction of the Whigs voted for Scott, or whoever the candidate might be, they did so, on the supposition that he would act, as regards certain questions, in a way the very reverse of what the *Richmond Whig* considered to be indisputable. The reason why a promise was desired from the candidate was not because he was not a sufficiently honorable man, to trust him without such a promise, but to obtain an undoubted declaration of his views, for the reason that those whose support he courted, ascribed contradictory views to him.

request would cause a defection from the party in the north which would far outweigh the injury which they had to expect from their refusal, in the south.<sup>1</sup> Hence the question of the finality declaration came to have a much greater importance, within the Whig party, than it had in the full session of both houses of congress: the existence of the party depended on its decision.

On the 9th of April, the Whig members of congress held a caucus, which had been called to determine the time and place for the holding of the national convention. Before this question was decided, Marshall of Kentucky demanded the adoption of a finality resolution, since he and those who shared his opinion could not co-operate in any measure, taken with reference to a national convention, so long as they did not know whether they could remain in the party. No decision was reached, and the caucus was adjourned to the 20th of April. But before its dissolution, Mangum of South Carolina, who was chairman, declared that he would then decide against the admissibility of Marshall's motion. The two fractions of the party did not come any nearer together, during the ten days that elapsed. Marshall moved his resolution and Mangum decided that he was out of order. Marshall's appeal from this decision was rejected by the caucus, by a vote of 46 to 21, and he with several others left the meeting. Gentry of Tennessee, thereupon, made a motion to

<sup>1</sup> The New York *Tribune* writes: "It is well known that the northern Whigs, as well as all parties at the north, entertain a great repugnance to the provisions of the Fugitive Slave Law. Any law for returning runaway negroes would be distasteful enough, but the existing law is especially and justly odious. For this reason, no Whig presidential candidate can hope to carry a single northern state, if he were to run as the special advocate and supporter of that law; in a word, and softly speaking, if he were to run as a 'compromise' candidate."



the effect, that the Whig members of congress, by the fixing of the time and place for the holding of a national convention did not thereby obligate themselves to support the candidates nominated at that convention, unless such candidates publicly and unambiguously pledged themselves to look upon the compromise as a final settlement. When this resolution, too, was declared out of order, still other members left the place.

On the following day, these proceedings were discussed in the house of representatives. Howard claimed that the decisions of the president of the caucus endorsed by the caucus, taken in conjunction with the resolutions of the caucus, adopted at the beginning of the session, afforded a proof, that the Whigs lamented their then course and that they contemplated assuming a different attitude towards the compromise. Goodrich, on the other hand, assured the house, that what determined the decision of the caucus was only the consideration by which the Democrats themselves had previously been guided, that the decision of the question raised by Marshall, belonged to the national convention. Brooks, however, in his irritation declared that a part of the southern, as well as of the northern, Whigs had become convinced that it was to their interest to repudiate the compromise. Campbell entered a decided protest against this representation of the situation of affairs. He went still farther than Goodrich, and asserted that the caucus only wished not to discuss the compromise question before the settlement of the convention question. If Marshall's demand had been made at the right time and in the form of an entirely independent motion which might have been modified and amended, the debate would have been willingly entered on. Campbell forgot to mention, that it was only at the last, that it was attempted to give the matter this turn,



and that a majority remained in favor of denying Marshall's request, on principle. Washburn of Maine furnished these necessary but exceedingly shocking addenda to his deductions. He boldly declared that the Whig party could not be deprived of its national character by smuggling into the party creed an article of faith on slavery, in respect to which an agreement of views could never take place. Whoever might be chosen as a presidential candidate, could not receive the vote of a free state if the finality of the compromise was taken into the party programme. The continued existence of the party was possible only on the supposition that men of all sections might belong to it, and this was irreconcilable with a "test," in relation to the slavery question; if one side claimed a "test" to be justifiable, the other would make a like claim.<sup>1</sup>

In the most material point the argument of the fraction led by Marshall, on this occasion, agreed with that of Washburn. Its first demand, too, was, that men of all sections could belong to the party, but precisely on this

<sup>1</sup> "But this I may say safely—they will not consent that the Whig party shall be denationalized by the introduction of any new test of political orthodoxy. They will never consent that the finality of the compromise measures shall be made a part of the Whig creed; and any candidate, whether he be General Scott or any other man, who insists upon that, or who is nominated by a convention which affirms or requires it, cannot, in my judgment, obtain the vote of a single northern state—not one. Gentlemen may as well understand this first as last. If we are to exist as a party, it must be upon a platform on which men of all sections of the country can stand together, without any sacrifice of opinion, of principle, or of honor; and not upon one which may well hold men of all parties in one section, and exclude all in another. Gentlemen should remember that if they can make a test of this kind, it will be equally competent for others to make tests in reference to the same general subject—they yield the question of jurisdiction and make slavery a national affair." *Congr. Globe*, 1st Sess., 32d Congr., p. 1158.

account, it declared it to be impossible to desist from demanding a resolution of finality, since a party which refused to guarantee constitutional and legal protection to the chief interest of one-half of the country thereby divested itself of its national character. The one course of reasoning was as logical as the other, and hence it was impossible to mediate between the two views. The fault lay not in the conclusions but in the premises, and it was the same on both sides. Both held to the fiction, that slavery belonged exclusively to the domain of the separate states, while, in truth the whole controversy turned on whether its nationalization, in respect to the rights claimed by the south, should be made the lasting condition precedent to the continued existence of the Union. What undoubtedly followed from these opposed courses of reasoning, was precisely that which both fractions, in unison with the Democrats, rejected: the slavery question was not only not settled, but it could no longer be prevented from bearing henceforth the character of a political party question; i. e. it furnished the basis for the building up of the national political parties, or rather it compelled the transformation of political parties into sectional parties.

The opposition in the Whig caucus deserves credit for having put this fact in a clearer light. The lying formula, to agree to disagree, which was still advocated by the radical wing of the northern Whigs, was rejected by them as untenable, and the right consequence was drawn from that conviction.<sup>1</sup> When the *Buffalo Express* of the 12th

<sup>1</sup> The *N. Y. Tribune* was written to from Washington as follows on the 7th of April: "No, Mr. 'Kit' Williams, and Mr. Humphrey Marshall, and Mr. E. Carrington Cabell, and Mr. All-the-rest, who dream (fitfully and fearfully, perhaps) that this present Whig administration plan of consolidating the Whig party, and bringing it to an agreement upon the subject of slavery, will work usefully, you are



of April claimed that the finality policy was followed only in the interest of Fillmore, it took a very narrow and very wrong view of the situation. People had not sought for a means of insuring the re-election of Fillmore, and then hit upon the finality idea; but because Fillmore had now, so to speak, fully identified himself as president, with the compromise, the finality party desired to place him at the helm. But on the other hand, the assertion of the *Tribune* was correct, that the finality policy was an attempt to consolidate the Whigs, in respect to the slavery question, a thing which could not be accomplished, and hence, on the contrary, could only end in the disruption of the party.<sup>1</sup> This claim was now proved by deeds by the caucus opposition. Eleven southern Whigs published an address in justification of their course in the caucus. The significant manifesto declared that neither now nor in the future, would they support a candidate who had not expressed himself in an unambiguous manner in favor of the finality of the compromise.<sup>2</sup> That they would not

mistaken. There are two parts to the Whig party. There is a northern and southern division—a slavery and an anti-slavery wing. There always was and always must be while it exists as a national party. On the subject of slavery there can be no agreement. The two sections of the party must do now, and hereafter, as they always have done—agree to disagree—or the party must go to pieces.”

<sup>1</sup> “It would seem that the parties who got into power in the Whig party by accident, are determined that the party shall continue them in power, or be defeated; and in their efforts to produce that result, are seeking to place the Whig party upon a platform that will insure its ignominious defeat whoever may be nominated. This scheme is urged for the sake of Mr. Fillmore—and his only.”

<sup>2</sup> “To assert the converse of our proposition—‘to agree to disagree’—on questions connected with the institution of slavery, as it is recognized by the constitution, on the Fugitive Slave Law and the finality of the compromise—is to open willingly the sources of the most noxious agitation, and to reveal the means of assailing anew the harmony, and, mayhap, the existence of the Union. . . . We repu-



abate anything of this demand was undoubted, and to hope that they would remain alone and would win no adherents among the people, was an illusion altogether too great, because what Gentry had said in the state convention of the Whigs at Nashville on the 20th of March, 1851, was correct: the two national parties had lost their right to existence and therefore their capacity for existence.<sup>1</sup> Stephens now expressed the same view in the house of representatives, and gave his reasons for it, in an irrefutable manner: political parties are viable only when they have their foundation in controlling political questions.<sup>2</sup> And a few weeks later, Gentry drew the last

diate and refuse, for our part, now and hereafter, to lend our support to any candidate whose principles are not plainly defined, or to join in any crusade against popular rights, the honesty of politics, or the palpable interest of the country, for the purpose of achieving a temporary political triumph." The address is printed in full in the *N. Y. Tribune* of April 29, 1852.

<sup>1</sup> "The Whig and Democratic parties, as at present formed and organized, taking them in the whole extent of the Union, are malformations—unnatural monsters. Both parties embrace sound and unsound elements. The disruption of both is inevitable at no very remote day. Present organizations may possibly continue until the next presidential election; they certainly will not long survive after that event." The address is printed in full in the *N. Y. Tribune* of April 29, 1852.

<sup>2</sup> "Nothing can be truer than that all parties deserving the name of party should be organized upon the principle of agreement and concurrence upon the paramount questions of the day. To speak, therefore, of this house as divided between Whigs and Democrats is, for all practical purposes, just as absurd and unmeaning as to speak of the British house of commons, at this day, as divided between Cavaliers and Roundheads, upon the anti-corn laws, or the income tax. They are unmeaning terms when you come to designate and define the position of members upon any of the leading public questions. I repeat, sir, that in all representative governments, parties to be efficient, living, and energetic, must sooner or later be organized upon those questions of public policy which control administration." *Congr. Globe*, 1st Sess., 32d Congr., App., p. 460.

consequence from these premises when he declared, that he would do all he could to destroy the Whig party, when his efforts to effect its reformation had proved fruitless.<sup>1</sup>

The initiative in the finality policy on the basis of new, solemn declarations of the factors of government had been taken by the Whig president, in his two annual messages, and by the Whig members of congress in their first caucus, and this was the result.

<sup>1</sup> "I am seeking to reform, purify, and nationalize that party; and when I have made an honest effort for that object, and failed, then the next highest duty which I shall deem incumbent upon me, will be to destroy it as thoroughly as I can. And I will perform it to the utmost extent of my power. I do not blink questions." *Ib.*, p. 709.

## CHAPTER IV.

## THE PRESIDENTIAL ELECTION OF 1852.

Almost half a year had passed, since the opening of congress; from the very first days of it, the "finality of the compromise," had been the shibboleth in all political contests; the continuance of the Union had been repeatedly declared to depend on the decision of that question, and one of the two national parties had actually fallen to pieces under its weight. From these facts, it is plain that this strange and, so far as language is concerned, not very happy expression, which was absolutely incomprehensible to a stranger, without a long commentary, must have had an eminently important meaning. The person who went in search of that meaning, in the direct way indicated by the expression itself, was led from one enigma to another still harder to solve. If the matter of the compromise laws were examined, the gigantic terrors which the treatment of the affair in congress led one to expect, disappeared like so much mist. The thing which—so far as could be seen at the time—could again assume the form of a question, was relatively so insignificant, that the importance which all political groups without distinction attached to it, could not possibly be explained by the fact that it might assume such a form once more. California was and continued a state of the Union, with the same rights and duties as the other states; the limits of Texas were firmly established, and the money with which its untenable claims had been settled could not be de-



manded back; the prohibition of the slave trade in the District of Columbia was a law of little practical importance, and no one said anything about it; neither in the north nor the south was there any intention to disturb the organization of the territories of New Mexico and Utah, and the conviction was general that slavery could find no lasting resting place in them. Hence, of the five laws which were embraced under the name of the Compromise of 1850, there was only one, the Fugitive Slave Law, whose "finality" could, in any way, seem imperilled. However, no serious attack had, as yet, been made upon it in congress. That radical modifications of it and even its complete repeal, would be moved, could not be doubted; but it was just as undoubted, that the immediate consequence of such motions would be only the quieting of the consciences of an evanescent minority. The number of those who did not wish to pledge themselves to the law publicly and permanently before the world, was large, but the number of those who wished to go beyond this passive protest, or were willing to be carried away and fan the embers of sectional contention anew, had greatly diminished. And, on the other hand—as has been already observed—those southern states which had least or nothing to suffer from the running away of slaves, because of their geographical situation, were most zealous in their advocacy of the Fugitive Slave Law. Hence, the "finality" of the Fugitive Slave Law was, after all, only an academic question.

Whole volumes might be filled with the speeches delivered on the "finality" of the compromise, and yet, most of the speakers did not say a word on the actual condition of things. How was this to be explained? The substance of the compromise laws was as well known to every adult American as the ten commandments; and it

could not be assumed that the mere word compromise had as exciting an effect on the politicians as a piece of red cloth on a bull. We can therefore understand why it was that people sought for explanations of this fact in causes which had a very loose and indirect connection with the compromise. Such secondary causes there undoubtedly were, and their influence should not be underestimated. It is folly to wish to deduce the determining influences of the development of nations from the spilling of a glass of water and other like trifles, but those determining influences always result from a total of different circumstances, and among these, there are always some which in themselves have no direct relation with those influences, especially the motives entirely personal, petty and impure of the personages who are the actors on history's stage. The drama of universal history would have a far grander character if these factors were eliminated from it, but it would not be its true character. History is, after all, the work of men, and men are infinitely far from being governed in their political feeling, thought and action only by great general views.

The southern Whigs were reproached by their northern party associates, because their passionate advocacy of a finality declaration was really, so to speak, only a policy of embarrassment. Party struggles in the southern states had latterly turned exclusively on the compromise. The Whigs, as champions of fidelity to the Union, had fully identified themselves with it, and, as the work of a Whig administration, claimed the credit of it for their party. They did not wish to give up the battle-cry with which, in conjunction with the Democrats who were faithful to the Union, they had gained the victory, partly because they could find no substitute for that cry, and partly because, under the after-effects of their former excitement,

the phantom of imperilled slavery still floated before their eyes. But as the compromise, including the Fugitive Slave Law, was now only an historical fact, with which neither the present nor the future was to meddle, their demand amounted only to this, that the party and its candidate should bind themselves to the maintenance unaltered of this one law. This unfortunate law, therefore, was the only thing that stood in the way of the election of a Whig president; for to this condition the free states would not and could not agree.<sup>1</sup>

The leaders of the southern Whigs were realistic politicians enough, and well enough aware of the true feeling in the free states, to know that the success of the party would be imperilled in the highest degree, if a finality declaration was forced by the attitude of the south. If, therefore, they insisted on demanding such a declaration, it was because it was dearer to them than victory. This decisive point was overlooked entirely in the reasoning given above. And, besides, the claim of the southern Whigs, that there was no possibility of a victory of the party in their states if that demand was not granted, was no less well founded. Precisely in this, lay the element of embarrassment or perplexity, the existence of which was certainly undeniable, and which had much greater weight than Stephens, Toombs, Marshall, etc., wished to admit. The Union party of the south had always characterized the compromise as the minimum with which it would be content; and, in truth, it had not done even that, for its Georgia platforms, Mississippi resolutions, etc., went a great deal farther than the compromise. Even with this programme, their victory over the radicals had

<sup>1</sup> See the Washington correspondence of the *N. Y. Tribune* of February 2, 1852. It is to be found, also, in J. S. Pike, *First Blows of the Civil War*, pp. 107-111.



been hard enough, and the mass of the population would have hardly understood the request to take a step backwards now. But they would have looked upon a refusal to make a finality declaration, as a great step backwards, and from their whole way of viewing the contest, they could not look upon it otherwise. They, unlike the politicians, considered the compromise as a whole, and as the least with which their honor and the vital interests of the south would be satisfied. This they had been told *ad nauseam* by the conservatives. If now the north refused to ratify the trade *in toto*, they would see in this a breach of faith; and if the same conservatives had now advised them to accept it silently or with an impotent protest, they would have turned away from these conservatives with indignation, for no reason but party interest could be adduced therefor, and the party with its dead programme was not so near the heart of the masses, that they would have sacrificed to it, what they had been taught to look upon as the honor and the vital interest of the southern states. There was in this respect no difference between the masses and the leaders; rather was this feeling much more marked among the latter. But if the leaders, in the interest of the party, had wished to smooth over or to silence the difference between the two groups of the party, regard for their constituents would have deterred them from doing so. The party might be ruined by its stubbornness, and their personal interests as politicians would naturally be greatly injured thereby, but a higher interest of their own held them fast to the stand which they, in accordance with their position in the compromise struggle, were obliged to take. To yield in the finality question meant, if not for all for many of them, political death, and so it would have been, even if its finality had been only an academic question, to a much

greater extent than it really was. What was true of the Democrat, Foote, was, in this question, applicable to the southern Whigs also, and Foote's course and fate afforded proof, which they might lay to heart, of the assertions made above. The reproach that, in moving his finality resolution, he was influenced by a regard for his own political future, was certainly not unfounded. In the contest for the governorship of Mississippi, he had triumphed over Jefferson Davis by so small a majority that he believed he needed the moral support of a formal resolution of congress, if the spirit of the compromise were to hold the preponderance in his state, and himself to play the leading part in it. When he declared the adoption of the resolution to be almost indispensably necessary, he had Mississippi and himself before all else in view, and looked at from that point, his claim was well founded.<sup>1</sup>

<sup>1</sup> J. S. Pike writes on the 17th of February, from Washington, to the N. Y. *Tribune*: "Foote . . . desired to fortify his political position at home by an act of congress, propping the platform upon which he has been fighting his battles with the States' Rights party of his own state. In his critical position, it was almost a matter of life and death with him to bring his party to a vote on the question. And his failure to do it has probably sealed his fate in Mississippi."

"It is not unlikely, however, that he has gone, anyway, but without the help of this life-boat it is quite certain he is to be engulfed. There seems to be little or no chance that the Compromise party of Mississippi will ever win another victory under their present volatile and impolitic leader. The next battle will be an Austerlitz victory to the States' Rights party. Such, at least, is the confident expectation of those who are most interested and best informed upon the subject. The consequence is that Mr. Foote will be left at home. Now, who would wish to disturb so fair a prospect as this? Who should desire to let down any ladder upon which Foote could again climb back to the senate? Foote reached the summit level of his career on the compromise measures. Mr. Clay tended the locks, and let on the water. He was carried up to the highest point, but has been let down again. Like a child at its first dance, he now wishes to 'do it again.' And all this ado in the senate about the re-enactment of the compro-



When the senate refused to grant his variable requests, his star quickly declined in the political firmament. His play in the Capitol at Washington, which had for some years attracted the eyes of the whole nation, was not, as he expected, interrupted for only a short time; it was ended forever. He did not, indeed, disappear from the political stage at the end of his term of office as governor; he came on it again as a member of the congress of the Confederate States, but the part he played here could not by any means be compared in importance with that which he had played in the compromise struggle.

But even if Foote was not determined in his course by purely patriotic motives, he was not open to the reproach that he had, for the sake of his personal interests, been inconsistent with himself and injured the interests of his party. The leaders of the finality fraction, in the opposed camp, could not say as much for themselves. It is highly probable that the Whigs would, under any circumstances, have been defeated in the struggle, but it is entirely un-

mise measures, had its origin in no more noble or elevated purpose than to canal Foote over a difficult place into the senate again. Before his return hence to Mississippi, he begged senators to come to a vote on his darling project. He considered it the ark of his political salvation. He considers it so now. But the floods have come, until he is surrounded by the rising waters, and but the faintest hope of success remains.

"This is, to be sure, a most undignified consideration to prompt the reopening, discussion, and agitation of a subject upon which the country desires repose. But as it is here represented so it is in fact. This explanation affords a clue to the indifference felt in the senate to the fate of the resolution in question." *First Blows of the Civil War*, p. 114.

Foote himself had said, on the 4th of December, in the senate: "I am exceedingly anxious to carry such a resolution as this home with me, for various reasons which I need not state. It is the only favor which I shall ask of the senate during the present session." *Congr. Globe*, 1st Sess., 32d Congr., p. 30.



questionable, that the intrigues in which their leaders engaged against one another, contributed very much to their defeat. The president himself, under the influence of ill-advised friends, took the lead in this dirty play.

The evolution which Webster made, in his speech of the 7th of March, 1850, was unquestionably to be ascribed, in part, to the prospects for the presidency which he thought he thereby opened to himself. There is no proof that the southern advocates of the compromise made him any definite promises, and it is not at all probable that they did make any. Such agreements are not wont to be made in express terms. But Webster was unquestionably justified in inferring from the whole conduct of these gentlemen, that he could firmly count on their support, if he should now, by an alliance with Clay, turn the scales in favor of bringing about a settlement. This was also unreservedly admitted by influential organs of public opinion which were far from being always faithful supporters of Webster.<sup>1</sup>

<sup>1</sup> Thus, for instance, the *N. Y. Herald* of the 13th of April, 1852, writes: "Henry Clay had thrown himself into the breach, but he was powerless without some efficient aid from the north. The leading southern Whigs, such as Mangum, and Badger, and Dawson, rallied upon Mr. Webster, seized upon him, stuck to him, and brought him finally up to the mark. His speech on the 7th of March gave a new impulse to the compromise movement, and the whole country felt that the danger was substantially passed. But it is notorious that, in the proceedings upon the committee of thirteen, Mr. Webster wavered again, voting this way and that way, and was only held to his place by the unceasing vigilance of Messrs. Mangum and Badger. It was a terrible trial to give up Massachusetts sure, for a doubtful settlement of the slavery dispute; but he did it through the example of Henry Clay, and through the personal influence of such men as Mangum, and Badger, and Underwood, and other southern Whig senators. They stood virtually, if not directly, pledged to indemnify Mr. Webster in the future for the loss of Massachusetts, in the cordial support of the south; and it was that impression, and the general popularity

Fillmore did not intend to put his own person in the way of Webster's expectations. It was afterwards publicly asserted—and, so far as I know, this account of the secret history of his candidacy was never corrected by him—that he, in accord with the most distinguished members of his cabinet, had resolved, formally to declare, that no thought should be entertained of his candidacy, under any circumstances. It is even said that this declaration was to be found in the draft of his annual message. But now the influence of Stuart, Hale and others obtained a preponderance over that of Corwin, Crittenden and Graham, and the passage in question was stricken out, as it was asserted, because it would expose the president to misunderstandings, since he had not been publicly put up

of Mr. Webster's course in the south, that rendered him at once a promising candidate for the presidency."

Where the speech of the 7th of March was considered "treason," people would not concede that Webster was conscious of having made any sacrifice. Pike writes, on the 2d of June, 1851, to the *N. Y. Tribune*: "Mr. Webster never once thought he was sacrificing northern support; he only thought he was gaining southern. He made that speech to get friends at the south—never doubting he could hold his own in the north, and not dreaming of the possible defection of Massachusetts. Mr. Webster never had the credit of boldness in making it, for none of his friends thought he was running the risk of losing anything, politically, by so doing. On the contrary, it was imagined that it was a great stroke, and would make Mr. Webster eminently popular throughout the south and southwest, and would achieve the culmination of his political fortunes by electing him to the long-coveted post of the presidency. This was undoubtedly Mr. Webster's own view; and far enough is it from the idea of a 'sacrifice.'

"There were a few at Washington who saw, at the time, how great was that delusion, and how deep was the pit Mr. Webster had dug for himself. But when such intimated that Mr. Webster would not be likely to sustain himself in the north, and that he might even lose Massachusetts, the idea was derided, and the suggestion that he could by any possibility fail to carry his own state, was laughed to scorn." *First Blows of the Civil War*, pp. 91, 92.



as a candidate in any quarter. When this was done by a town-meeting, it was suggested to him, that, now, the desired opportunity was offered for making the declaration referred to, and he drafted a letter containing it. This letter was laid before the cabinet, discussed by it, and its immediate publication resolved on. Webster who, from a feeling of delicacy, had not been invited to this cabinet meeting was informed by the president himself on the following day of the resolution, and requested to communicate it to his friends. But now, Fillmore hesitated to execute the resolution and at last even refused to publish the letter, under the pretext that his candidacy was necessary to keep the party together. Webster was so incensed at this that it required the mediation of a common friend to reconcile the president and his secretary of state; but Webster allowed himself to be quieted by the definite promise, that Fillmore would give up his candidacy before the meeting of the state convention.<sup>1</sup>

It would certainly be doing an injustice to Fillmore to assume, that this promise was not honestly meant, and that he wished to play false with Webster, from the first. Fillmore was a man of honor, but intellectually a man of very ordinary, average ability, and in the presence of political responsibility, he was far from being a character. That he could, under certain circumstances, develop a high degree of moral courage, in the face of public opinion or of what claimed to be public opinion, his position on the compromise controversy and especially on the Fugitive Slave Law, had sufficiently demonstrated; for, that he did not become the tool of the south like so many others, in order to further his own personal ambition, cannot be questioned, whatever may be otherwise thought of

<sup>1</sup> See the letter dated Key West, Fla., March 8, 1853, and signed "Ostego," in the *N. Y. Tribune* of March 26, 1853.



his attitude towards those questions. What he was lacking in, was the intellectual courage to take the initiative, and to decide and judge for himself. Personal ambition, which, I may say was only artificially awakened in him, helped him to put aside only the hesitation at the last step, by which he exposed himself to the reproach of a breach of faith against his concilor.<sup>1</sup> He certainly believed in the argument of the keeping together of the party, as they also believed in it who thought of making him serviceable to their ends, by it. It was, in fact, nothing but the claim of the southern Whigs that only an unconditional pledge to support the compromise could prevent the disruption of the party. But even granting, that a conservative candidate was an absolute necessity for the party, what reason was there why that candidate's name should be Millard Fillmore? Why might it not be Webster, just as well? His merit in bringing about the compromise was no less than Fillmore's, and his fidelity to the compromise could just as little be doubted. Was there a dread of greater opposition from the liberal Whigs of the north to Webster's candidacy, than to Fillmore's? In part, this was certainly and unquestionably not altogether wrong. It was harder to forgive Daniel Webster, "the godlike," the "defender of the constitution," the intellectual giant among the statesmen of New England,

<sup>1</sup> Pike, who, indeed, took a one-sided party view, but who, nevertheless, was a very good observer, with a good psychological judgment, characterizes him as follows: "The president differs from the secretary (Webster). He, too, lacks pluck. But nobody doubts his integrity. He wants backbone. He means well, but he is timid, irresolute, uncertain, and loves to lean. There will be no Thermopylæ in his life, as there has been none in the life of his chief secretary. Nature bestowed no intrepidity in making up either's composition. It was the omitted ingredient. Would the name of either be mentioned as the leader of a forlorn hope? Alas! we need not answer." *First Blows of the Civil War*, pp. 122, 123.

for "treason" against the cause of the north and of freedom, than the accidental president, the man comparatively without a record, whom the political wire-pullers and the caprices of fortune had placed at the head of the nation, at an important moment. But if the more radical wing of the liberal Whigs thought thus, it could, on the other hand, be hoped, that the more indifferent among them would by the conjuring up of the memory of times that were past, be made to warm towards the great Webster. But who could be made to grow enthusiastic over Fillmore, in whose favor nothing could be adduced but the commonplace firmness and tenacity with which he stood by the compromise? Even people who gave him the preference, were obliged to admit that the contest would have no prospect of success whatever, if it was to be carried on under the leadership of so insignificant a standard bearer.<sup>1</sup>

If, however, Fillmore's candidacy—not only in so far as he was himself concerned but so far as the real originators of it were concerned—was intended only as a tactical manœuvre, the plan might not be a bad one. Experience in the United States has taught that a candidacy too early announced is seldom successful. Too much time must not be left, not only to the opposite party but to the different coteries in one's own party, to subject the intellectual endowments, the character and the whole personal and political past of the candidates to their inconsiderate and only too frequently dishonorable and conscienceless criti-

<sup>1</sup> P. Greeley, Jr., writes, on the 9th of March, 1852, from Boston, to Pike: "With the best feelings towards Mr. Fillmore, those of us who do the work here (many of whom would really prefer Mr. F. to anybody else, if he could be sure of getting votes) are of the opinion that the contest may as well be abandoned before it is commenced, unless we nominate General Scott." *Ib.*, p. 119.

cism. The brightest silver becomes tainted and abraded by too much handling, even when the hands are clean. If Fillmore was to serve only as a lightning-rod, and willing to serve in that capacity, his candidacy might certainly be of great service to the Whigs. If it were maintained only until the conservative fraction had brought the liberals into subjection to their programme, and if Webster were not declared the real choice of the conservatives until immediately before the decision, it might be possible, by the surprise and a stormy appeal to the interest of the party, to carry his nomination and to lead the whole strength of the party into the field for him.

I have not, however, been able to find a direct witness to prove that the most influential southern Whigs, or even some of them, did, at any time, desire to make use of Fillmore as a lightning-rod for Webster, and subsequent events argue entirely against this view. But this does not, by any means, require us to assume, that they were, from the beginning, resolved to stand or to fall with him. The most probable thing is, that they desired, at first, to leave the positive side of the question of persons open, contenting themselves with using Fillmore's candidacy as a battering-ram against the liberal fraction. Clingman, whose course had given Brooks the pretext for making the southern Whigs in general responsible for the defection of their northern party associates from the finality programme, endeavored to move his nearer colleagues to make the declaration, that they would work against the sending of delegates to the national convention by the southern states, if Fillmore's candidacy was dropped. He said, however, that his only intention in doing this was to defeat Scott's nomination, and to clear the way for the conservative candidate—whoever might be chosen as such candidate—or, in case the liberals persisted in their



stubbornness, to bring about the destruction of the party.<sup>1</sup>

The plan had one weak point. The liberals agreed to the first half of it, in order to be able to hit the enemy with his own weapons so far as the other and most essential was concerned; that is, the immediate dissolution of the party was prevented by the maintenance of Fillmore's candidacy, but the liberals knew how to make use of it in order, finally, to carry the nomination of their own candidate.<sup>2</sup> That they succeeded in this, was owing in great part to the fact, that the southern Whigs, having become too confident by their first success, now made the question of persons so prominent, that it led to an ominous division of the conservative fraction. Whatever they may have originally intended, people could no longer be deceived as to this, that they had resolved not to allow Fillmore to redeem his promise to Webster, but to work

<sup>1</sup> "I saw in succession, privately, many of those southern Whigs who were most hostile to the Seward-Scott movement, and induced them to agree that if Mr. Fillmore did decline, in respect to which there was some intimation in the papers, they would join in a public declaration against the convention and advise the southern Whigs to decline to go into it. . . . The Hon. Humphrey Marshall called one morning to see me, and he was strongly conservative in his views, and exceedingly averse to the Scott movement then. I explained the matter to him, and asked his coöperation in my plan, so that we might by such action either compel the northern wing to abandon the purpose to select Scott, and consent that Mr. Webster or some one occupying a similar position should be our nominee, or if we failed in this, to break up the Whig party, and form a new organization that should not be controlled by the anti-slavery elements." *Selections from the Speeches and Writings of Hon. Th. L. Clingman*, p. 308.

<sup>2</sup> "It became known thus that if Mr. Fillmore should withdraw, the result would be that the party would be disrupted. Immediately thereafter, the policy of the friends of Messrs. Webster and Scott were changed, and Mr. Fillmore was pressed to stand, in order that he might, as the event proved, be made useful in holding the party together for the benefit of General Scott." *l. c.*

for his nomination by the national convention with all their power. Nothing had happened in the meantime which could make the political stature of the president assume more imposing proportions in their eyes, or have brought him nearer to their hearts. They judged of him, and felt about him, as they had judged and felt before. The nearer the decision approached, the clearer they became on only one thing, that they did not want Webster. His intellectual superiority and the absence of real popularity, which had from the first stood in the way of his wishes in relation to the presidency, now, too, operated against him. But the decisive causes were incontestably in the history of his position on the slavery question. Considering his entire past, was it possible to believe that his advocacy of the compromise was to be ascribed solely to honest conviction? He had wavered again after his speech of the 7th of March, in the proceedings regarding the Committee of Thirteen, and then, after the close of the compromise, expressed himself in favor of an alteration of the Fugitive Slave Law, in case it gave occasion to well-founded criticism, while now he was soliciting the votes of the finality party.<sup>1</sup>

<sup>1</sup> He had written to Colby, on the 11th of November, 1850: "If experience shall show that, in its operation, the law inflicts wrong, or endangers the liberty of any whose liberty is secured by the constitution, then congress ought to be called on to amend or modify it." Curtis, *Life of D. Webster*, II., p. 484. And in the spring of 1852, he declared in Annapolis: "I hold the importance of these measures (the compromise laws) to be of the highest character and nature, every one of them, out and out, and through and through. I have no confidence in anybody who seeks to repeal, or anybody who wishes to alter or modify these constitutional provisions. There they are. Many of these great measures are irrevocable. . . . Other important objects of legislation, if not in themselves in the nature of grants, and therefore not so irrevocable, are just as important; and we are to hear no parleying upon it. We are to listen to no modification or qualification." *Ib.*, II., p. 604.

But if he had always allowed his ambition a powerful voice, during the last two years, on the all-controlling question, whenever he took counsel with himself on his own resolves, was it to be expected that he would be found completely reliable, after he had reached the goal of his ambition? Could a man of Webster's importance break with his past, to such an extent that when the highest office of the republic, with all its moral responsibility, weighed upon his shoulders, he would be an entirely reliable finality man, in the sense of the slave-holders, that is, in the sense of the Georgia platform and the Mississippi resolutions? He had bartered a part of his life-long convictions and of his political conscience for the favor of the south, when the suggestions of ambition, in conjunction with wrong but honest patriotic considerations, urged him thereto: but a northern man with southern principles, like the Van Burens, Casses, Dickinsons, and Douglasses, he could never be. The south had certainly not to fear treason from him, but if events and circumstances ever again made any phase of the slavery question the order of the day - - and that this, spite of all finality declarations, might happen at any moment, the south was always fully conscious - he would not, in all probability, have looked upon the bidding of the slaveocracy as a law. As before the 7th of March, he would again have found himself standing at the parting of the ways. The 7th of March, with its consequences, was a guarantee that he would endeavor to do justice to the south, in the spirit of the compromise, but then it would have appeared that he and the south understood this spirit in different ways, and who guaranteed that he would not be dragged back by the force of his great past into his old ways? One step in that direction and it would have put upon him the question of circumstances how far he would go in it; and



then it was by no means unimaginable that he would be forced beyond the point of view which he had taken in the days of his most decided opposition to the slavocracy. The moment he came in conflict with the south, the desire would necessarily be powerfully awakened in him to rehabilitate himself in the judgment and feeling of his former and natural associates, and who could say that he would not be carried away by the fiery, inconsiderate zeal more peculiar to the relapsed renegade than to the renegade himself? He could no longer appeal to his character against such fears, after the 7th of March, and the wild speeches which he had made in the state of New York and in Virginia, for the compromise.<sup>1</sup> The south was under obligations to him, but the manner in which he placed it under obligations, had injured the respect in which he was held, and to the extent that respect for him was diminished, the south had reason to fear his election to the presidential chair. So far, Webster's course on

<sup>1</sup> If one considers this as so much idle and untenable speculation, let him recall the last phase in Douglas's life. Some places in the speeches referred to in the text, show how easily the possibility above spoken of might have been realized. Of these speeches, the one made at Capon Springs, Va., gave the greatest offence in the north, on account of the frivolous and very shallow wit with which he vented himself on the "higher law of the fanatical and factious abolitionists of the north." And yet, in this speech, he spoke against the secessionists, saying: "I make no arguments against resolutions, conventions, secession speeches, or proclamations. Let these things go on. The whole matter, it is to be hoped, will blow over, and men will return to a sounder way of thinking. But one thing, gentlemen, be assured of, the first step taken in the programme of secession, which shall be an actual infringement of the constitution or the laws, will be promptly met. And I would not remain an hour in any administration that should not immediately meet any such violation of the constitution and the law effectually and at once." Curtis, *Life of D. Webster*, II., p. 516. And again, in the spring of 1852, he repeated the same statement in Annapolis. Compare *Ib.*, II., p. 603.

the compromise question had been a political speculation of his ambition; its result, therefore, even so far as the south was concerned, was the very reverse of what had been expected. If the conservative Whigs of the south had believed that they still needed him, they would have disregarded this consideration. He had nothing more to offer them, and hence all they had to say was: the Moor has done his duty, the Moor may go.

The south needed Webster no longer, but to set him aside meant to seal the defeat of the Whig party. If the victory of the Democrats did not long ago appear entirely undoubted, the principal reason was, that the Whigs had control of the mighty apparatus of government patronage. When they were the opposition, the promise to do away with the corrupt and corrupting business of the bestowal of office, had always been one of the most attractive baits by which they endeavored to draw over to their side the fluctuating, skeptical and critical elements, by whom the decision in electoral campaigns was wont to be given. But when they got to the helm, nothing essential was changed in the matter, and in some respects there was only a jump out of the frying pan into the fire, partly because the Whigs had control of the government so seldom, and hence turned their time to double advantage, and partly because they were always quarreling among themselves when they were in power. Now, too, all kinds of scandal came to the surface, and threw a strange light on the Whigs as a reform party; and it was not the Democrats alone who loudly complained that the administration used the public offices, in a shameful way, as capital for the prosecution of its political ends. From the confidential letters of the Whig politicians, much evidence may be collected to show that these reproaches were only too well founded. Moral indignation at this was, indeed, not very



deep, for the most frequent and most bitter complaint was, that the liberals, or, as they were then called, the Seward Whigs, went away empty handed, and that the administration gave the patronage almost exclusively to its closer partisans. There may be a difference of opinion as to the policy of this partiality within the party. The ill-feeling between the two fractions may have been aggravated by this means, but, perhaps, it was the only way to insure the victory of the conservatives and to secure to them, if not in the party, at least in the circle of professional politicians, so great a preponderance that the liberals would give up their resistance. In any event, this result could be hoped for, only in case the administration, in this distribution of patronage, acted simply as the organ of the serried phalanx of the conservatives. That was the case, so long as the question of persons was allowed to remain in suspense. But when the southern Whigs resolved to ignore their obligations to Webster, under all circumstances, and therefore chose Fillmore as their definitive candidate, because he was both in the struggle within the party as well as in that against the Democrats the candidate who had the best prospect, in case Webster was dropped, the situation was entirely changed. To what extent Fillmore clung to his office cannot, of course, be said with certainty. But unquestionably the thought of not only keeping the party together until the meeting of the national convention, but also of seeing it win the victory under his leadership, had a great charm for him. Without succumbing to the delusion that he was a great man, he began to listen to the suggestion, that he was the man of destiny whose pure and moderate views could save the party, and through the party, the country from radicals of all kinds. And when he was clear in his own mind, that he should not recoil from that task, he did not hesitate using the means afforded



by his office to do his part towards the execution of the decree of fate. Offices were now no longer given in the interest of the conservatives, but one had to be a Fillmore man to get a place at the crib of state. This change made Webster certain, that the president no longer intended, by his candidacy, only to keep the way free for him, till the meeting of the national convention. But Webster was not able to give up his hopes entirely on this account; they had become too much a part of his life, and he had sacrificed too much to see them realized, for that. But he did not ignore that the turning to account of the governmental patronage in his interest, had been one of the principal props of his prospects, and that hence, it was a terrible blow to them when that patronage was used not only not for him, but for the most part, in the interest of a rival. There, therefore, could be no longer any question of maintaining the relations which had hitherto existed between the president and his prime minister. The expectation, however, entertained here and there, that it would soon come to a formal breach between them, was indeed not realized.<sup>1</sup> Both felt that they would, in thi-

<sup>1</sup> Pike writes, on the 28th of January, 1852, to the *New York Tribune*: "There is a great commotion between Mr. Webster and his friends in relation to the recent determination of the president not to withdraw from the canvass. You will see in the papers all manner of contradictory accounts on this point, and from sources that are usually well informed. But when every thing uncertain is brushed away, the naked fact will remain and be clearly visible, that Mr. Fillmore is in the field, and of course against Mr. Webster; for the strength of both, so far as they have strength, consists in their position in the compromise question. They stand on the same platform and are covered by the same canopy."

And on Feb. 28th: "The present position of Mr. Webster and Mr. Fillmore, as card players in the game Henry Jones has begun, and more generally as the public representatives of a new administration, necessitate the re-examination of the cabinet. The secretary has an arduous ex-

way, be sawing off the branch on which they were sitting. If Webster, by his leaving the cabinet, threw down the gauntlet at Fillmore's feet, the administration would have turned openly and directly against him, and then he would have forever buried all his presidential hopes, even before the meeting of the national convention, with his own hands. But Fillmore, disagreeable as it must have been to him to be obliged, by Webster's remaining in the cabinet, to place a part of the patronage at his disposal, was exceedingly anxious to preserve a good understanding with him before the public, since, by an open quarrel with the Webster party, his following would have been too much weakened to carry his nomination. Hence, outwardly, things went on as they had hitherto gone, because the president and the secretary of state hoped that they would, at the last moment, receive the support of the other fraction when it had become convinced that it had no choice but to give it, or to allow the liberals to triumph. But whether this calculation proved true or not, the force of the offensive blow which the administration had wished to deal by the

pected to have the administration field to himself, and to find now that he is allowed but a very small 'patch' of it, is excessively provoking. And it is impossible that so much poignant chagrin as is felt should be altogether suppressed. And it is not. So that it cannot be long, if there is no change in the position of the candidates, before it will burst out in open crimination. Men of strong passions, with cross purposes, and keen personal aims, cannot meet in daily intercourse and be always amiable and polite and confiding. This is more difficult than

'To smile and smile and be a villain.'

The lines of the president and secretary, who are both bobbing for the same big trout, will inevitably tangle. So long as they run side by side on the same course they will jostle, interlock their wheels, crowd, and perhaps jockey. We see numerous signs of this already. Such a state of things cannot last and good nature continue to prevail. Collisions will be followed by contusions." *First Blows of the Civil War*, pp. 104, 105, 106.

use of its patronage was broken, and the repercussion was heavily felt by the cause of the whole party, since the element of personal ambitions and animosity was carried into its already loose organization to a greater extent than before.

The strength of the liberals, as compared with that of their conservative party associates, lay in the fact, that such rivalries did not exist in their midst. They had been united, from the first, on the person of their candidate, and they remained so to the last. But that was the only point in which their superiority must be admitted. When the southern "Silver Grays," as the Fillmore fraction was now called, in the heat of the war of words, reproached them with abolitionist views, the accusation was entirely untenable. Whatever some of their leading men might think on the slavery question, according to their fraction programme, they did not even deserve the name of the liberals—a term chosen by myself for the sake of convenience, which considering their contrast to the anti-liberal views of the conservatives may be justified. Their programme, in the slavery question, consisted simply in having no programme, and in comporting themselves towards the finality policy, by parrying it. According to this, the position of the candidate on the slavery question was not decisive. It certainly had been seriously considered in the choice of the candidate, but only to the extent that it lay somewhere between the two more marked directions, and it was therefore permissible to believe that neither the one nor the other would see any insurmountable obstacle in it. The merit here, too, consisted in the absence of a positive programme, and the indefinableness of the position. What made General Scott, in the eyes of the politicians, the only possible man, had nothing at all to do with politics. As the party, after all, had no longer any



programme, and as, so far as such a programme could be spoken of, greater efforts were made to conceal it than to get votes by it, it was a recommendation of the candidate, that he had no political past, provided there was no doubt that he belonged to the party. But Scott did not need, as Taylor once did, to collect his thoughts in order to discover that he was a Whig, for the whole people had known for years that he had always been one. Yet all these things were only causes which rendered him much less open to attack than any other political celebrity who might be selected as a standard bearer; and, to move the masses for a candidate, it was necessary to be able to claim something positive in his favor. To this positive element alone, Scott owed the preference given him, but that element was found exclusively in his military exploits. The victories of the Mexican war which was the work of a Democratic administration, and which was waged in spite of the opposition of the Whigs, were destined to cover, for a second time, the political bankruptcy of the latter.

If the Whigs had so little to offer to the people, that the military services of their candidate were the only sheet anchor on which they could set their hopes, Scott was evidently their man, since no general could be placed on an equal footing with him. But this did not mean that his military exploits would prove a great charm. The intellectual and moral languor into which the people had fallen, after the war and the compromise struggle, did not dispose them towards ascribing undue value to military exploits, in the domain of politics. But leaving this out of consideration, Scott's military record and his whole personality were not calculated to excite the enthusiasm of the masses for him, to the extent of blinding their judgment; notwithstanding all the credit which these ex-

plots deserved, they were altogether too open to criticism. Nature had endowed Scott with a stature and features which would have been imposing, if the life in them had borne witness to an elevated mind, before which—as in the case of Washington for instance—men were obliged to bow in involuntary esteem. But the intelligence, the force of will and the self-consciousness which spoke out of them, were greatly detracted from, by a very apparent vanity which, spite of his amiability, in intercourse with him, was always painfully felt, and which became now and then so petty in its manifestations, that it provoked a disdainful smile. The hero of Mexico had inscribed his name on the tablets of the history of his country, and hence did not need to be too proud of the plume in his hat or of the epaulettes on his shoulders. But this vanity had asserted itself in less harmless things, in a manner which seriously injured his fame and the public interests confided to him. The history of the Mexican war itself was rich in very offensive manifestations of it, and of his altogether too great self-esteem. This is not the place to investigate how far he was guilty of the arid quarrels which he had had with the administration and especially with his subordinate officers, and which, at last, led to a long court-martial investigation. We are not concerned here with passing moral judgment upon him, but only with ascertaining to what extent the expectations of the Seward Whigs that the hero of the Mexican battle fields would be able to inspire the masses in his favor, was justified. However the guilt of these quarrels might be divided, in the feeling and judgment of the masses, they had cast a shadow on Scott's name, and even awakened doubt as to how far the merit of some of his victories should really be ascribed to him. Besides this, there was something in his whole manner, which did not allow the



great crowd to warm towards him.<sup>1</sup> He had neither the winning plainness nor simplicity of heart of Harrison and Taylor, nor the respect-compelling dignity and selflessness of a Washington. He was not great enough in mind and character to make one feel elevated himself by looking up to him; rather did he awaken the spirit of opposition by too plain an exhibition of the fact that he believed himself to be much greater than he really was. The ordinary, every-day man was too noticeable in the hero, to allow people to grow enthusiastic over him, and the hero was not strong enough to overlook the little weaknesses of the every-day man and to forgive them. People were proud of the victor in so many battles, and much more inclined to estimate his generalship too high than too low, but, even during the war, public opinion had never lost the capacity of cool, skeptical judgment in his regard, and the hopes which the politicians connected with his candidacy, amounted only to this, that the public would lose that capacity now.

They would not have fallen into this illusion, if there

<sup>1</sup> Gentry, himself a Whig, although a decided opponent of Scott's candidacy, said in the house of representatives: "Now, although it is due to General Scott to say—as I believe to be true—that his military career has been more brilliant than that of either of those distinguished generals (Harrison, Jackson, and Taylor), or than that of any other general since Washington's day; yet it is a fact that ought to be observed by those who are ciphering up the sum of availability, that somehow, or somehow else—I will not undertake to explain and define it—he has not, in his personal character, those attributes and qualities which make the people love him as they loved Jackson, Harrison, and Taylor. They admire him as a military hero, but that is the beginning and the end of it. The idea of his availability will turn out to be the greatest possible mistake. Should he be nominated, he will prove to be the weakest man ever run for the presidency. He will be more overwhelmingly defeated, in my opinion, than any man who has ever been placed in that position by any considerable political organization." Congr. Globe, 1st Sess., 32d Congr., App., p. 710.



had been a personage of national reputation in the party, under whose leadership they might have entered on the electoral campaign, with any confidence of success. But this fact, that the fraction, had simply no one but him to propose, covered serious objections, which from the point of view of expediency, were raised against his candidacy.

As early as 1840, his name had been mentioned in connection with the presidency, and he publicly acknowledged himself a decided advocate of the then active nativist tendencies. In a letter of the 10th of November, 1840, addressed to G. W. Reed, he declared in answer to the interrogatory put to him, that the deportment of the naturalized citizens of New York, on the occasion of Harrison's election, had strengthened the idea he had conceived in 1835, and filled him with so much indignation, that he, in conjunction with two friends, had drafted an address intended to give the impulse to the formation of the "American party." The publication of that address had been omitted for reasons unknown to him, but his views had not changed. Only he was not entirely clear, whether the time one should be in the United States before naturalization should be lengthened, or whether all laws relating thereto should be repealed, but he inclined towards the latter.<sup>1</sup>

The letter left nothing to be desired as to its clearness, but it was apparent from it that Scott did not think well then, to burn his ships behind him. This he did four years later, and, unasked, "methodized" his ideas on the question, although the eventuality which he had in view had not occurred, that is, although he had not yet been chosen presidential candidate. The *National Intelligencer*, of the 17th of December, 1844, published a long

<sup>1</sup> See the letter, l. c., p. 833.

article which came from him, and the substance of which was, that naturalized citizens should not be allowed the right of suffrage, not only in national, but also in state and municipal elections, unless they had served two years in the army and navy, in time of war.

The political criticism of this view, in the case of an American statesman, will occupy us in the history of the Know-nothing movement. Here it is sufficient to state the fact, since, without any commentary, it is evident from it, that Scott could not count on much enthusiasm among naturalized citizens. In the fourth decade of the century, he did not need to pay any attention to this in his presidential aspirations, as the Irish and Germans, who alone were of any importance, were almost without exception, Democrats. But so far as the Germans were concerned, this state of things had been so far changed, by reason of the immigration of 1848 and 1849, that they could not be left out of the account entirely, while nativism, which had been of importance then, at this time played no part. Scott, indeed, now confessed to different views. He claimed that the Mexican war had removed the cataract from his eyes, and he wished to see very considerable favors in respect to the acquisition of the rights of citizenship, favors greater than those accorded by the existing laws, shown even to those immigrants who had served in it. We are not entitled directly to question the honesty of this change of view, but it is conceivable that naturalized citizens could not help mistrusting it, since it had taken place in a candidate for the presidency and was so much to his interest.

Of incomparably greater importance than this distrustful coolness of the naturalized citizens, was the suspicion of the south, that Scott was one of those white blackbirds, a southern man with northern principles. This reproach,



too, was of a pretty remote date. It was based on a letter of the general's, of Nov. 9, 1843, to J. P. Atkinson, in which he had declared that the views developed by Jefferson, in his Notes on Virginia, and by Judge Tucker, in his Appendix to Blackstone's Commentaries, on the gradual abolition of slavery, had early made a deep impression on him. The suspicion was further fed by the fact, that people believed that Seward was on rather intimate relations with the general, and that the hated New York statesman exercised great influence over him. This influence, indeed, was not considered as great as it was represented to be in political controversial speeches, but that the assertion was not entirely baseless, could not be questioned. The Seward Whigs had a very simple means at hand to weaken the accusations of their opponents. The latter again and again asked for an authorized declaration as to Scott's position on the compromise, but they always received only words on the proofs which lay in the history of a long life, and other meaningless generalities, for an answer. Hence, either no answer could or would be given to this question, and, in either case, Scott had nothing to hope for from the slave states. Perhaps it would be possible to find a way to induce a majority of the southern Whigs to accept his candidacy, but, under any circumstances, he had, at most, to expect only a very lukewarm support from them.

If now we take in, at one glance, the state of affairs just described and the position of the principal personages mentioned, it must be admitted, that it would be hard for a great party to enter on an electoral campaign in a sadder plight. The Whigs could no longer be compared to an army; from week to week they were transformed more and more into a confused, wrangling crowd, whom only habit and the desire of power and booty still held together.



No political thought united them, no moral principle gave activity and force to their will and action, the masses had no confidence either in the cause or in the leaders of the party, for no one could say, or dared to say, what their cause was, and the leaders endeavored mutually to supplant each other; the place of manly honor and of the pride of conviction had been taken by a demoralizing game of hide-and-seek among themselves, with vague expressions, clumsy ambiguities, and premeditated silence; and the whole over-fine calculation by which it was sought to prolong its life, was made up of purely negative factors. If the Whigs had still one element of strength, it was that they were not Democrats; in other words, if the struggle was, from the first, absolutely without any prospect of success, it could only be because the disorganization and demoralization of their opponents had reached a still higher degree.

We have already heard that the Seward Whigs, at least, did not rely on this hope, since they completely denied the possibility of a victory, if Scott were not nominated. And yet, as a matter of fact, the demoralization of the Democrats was, in some respects, greater than that of the Whigs, but their organization was not materially shaken thereby. On this very account, their internal degeneration was all the deeper, because, spite of their being without a programme, and of the difference of their views regarding the one controlling question, they were able to keep the internal structure of the party intact. The Whigs, however, had still so much fidelity to conviction, that their differences tore the structure of the party to pieces with irresistible force, spite of the artificial means employed by the politicians to hold it together. The Democrats, on the other hand, kept their convictions for home use; outside of their own four walls, they knew only the party. Among the Whigs, the question of per-

sons caused so much difficulty, because their views were not in harmony; the Democrats boldly set aside differences of opinion, but the several coteries strove with as much temerity for their standard bearers, as if there were question of the most important principles. The party of strict principles now drew its strength from the ease with which it set itself above principle, and its weakness lay in the *embarras de richesses* of leading politicians in the garb of great statesmen.

The number of those who were mentioned as possible victors in the tournament of the Democratic national convention, was so great, that it was much more hazardous than it had been in any previous case, to prophecy the probable result. Cass, Buchanan, Douglas, Marcy, Houston, Butler, Woodbury, Dickinson, R. J. Walker, Dallas, Lane, King, of Alabama—such a list of presidential candidates, no party had ever before been able to show. Skeptics might see in this oppressive abundance a new manifestation of progressive democratization, which tended toward reducing everything to a level. But the question was permissible, whether the fruitifying force of democratic ideas and institutions, had caused the number of great statesmen to increase with such surprising rapidity, or whether the qualifications required of the first official of the nation had not been reduced with the progressive democratization of the ideas and institutions of the country.

The probability of success was of course very different with these possible candidates. It might easily happen that some of the names referred to should not be so much as mentioned in the convention, and no one questioned, that the first three would have the largest following in it. But for the very reason that each of them was sure of a large number of adherents, the three had perhaps a smaller



prospect of success than their competitors of the second and third rank.

If the convention, contrary to expectation, proceeded rapidly to the nomination of a candidate, Cass had the best chance of success. He was considered for many years a sort of Saul in the party, who towered somewhat above its other politicians. His statesmanlike greatness was a valued tradition, and if his honest admirers were not many, yet the majority of those who did not attach immoderate weight to the question of persons, would have preferred to follow his banner, provided he had not been a "beaten horse." The fact that he had been defeated once in the race for the presidency was to many an objection, and to a still greater number an acceptable pretext to oppose his nomination on grounds of expediency. From the time that American politicians have been willing to elevate mere professional politicians instead of statesmen into the presidential chair, they have always been of the opinion that the party fared better with an unknown magnate than with a man of acknowledged importance, whose prestige had suffered from defeat.

Buchanan had never had Cass's prestige, but he, too, had for years been reckoned among the real leaders of the party, so that his candidacy had been thought of very seriously, even at an earlier date. But among the people, he created no stir whatever; his elevation would have to be the work of the professional politicians entirely, and if these, in the present sad condition of the party, united on him, it would certainly be from considerations of expediency, the nature of which could not now be perceived. Since with the exception of Pennsylvania, at most, he would not win one vote for the party, as much could be accomplished with any other candidate. Why, therefore, should the free-trade fraction accomodate itself to the senator of the pro-



teective-tariff state, and why should the coteries who devoted themselves to party politics, more or less as a business, hold the stirrup for the man who for decades had had a numerous army of his own, with its privileged claims? It was to be expected, that the delegates to the convention, who were not among his closer adherents, would not have many nor weighty grounds against his candidacy, nor many nor weighty grounds in favor of it.

Lastly, Douglas was neither worn out, nor a personality towards whom the people or the politicians could be indifferent. The fact that he had too much power and self-consciousness, and that he prosecuted his aims with an energy regardless of consequences, stood in his way. Whatever else may be thought of his endowments and character, he certainly was a born leader, and hence he was followed not only by a part of the politicians, but also by a part of the masses, as none of his rivals was. The very fact that Douglas, not yet forty years of age—he was born in 1813—for whom neither fortune nor influential friends had paved life's path, could compete as, at least an equal with the gray heads of the party, for the highest office of the republic, is a sufficient proof of this. He based the fulfillment of his ambitious dreams, on the thought, that the whole party would not be satisfied with running in the old path of routine provided only it again reached the crib of state. Those who felt any force in themselves and desired to prove they possessed it, saw in him the natural head of the elements of action, and proposed to lift him by a powerful effort over the heads of all the old party magnates, into the presidential chair. At first it seemed as if they would be successful in this.<sup>1</sup> Here

<sup>1</sup>C. A. Dana writes, Aug. 9th, 1851, from New York to Pike: "Let us have that screed about the presidents *in futuro*. Douglas (sic) has the best look just now on that side. Cass, Buchanan, R. J. Walker, Woodbury,

the fresh current which they endeavored to introduce into politics was greeted with joy, and there people were impressed by their self-assertion and boldness, while the "old fogies" scarcely knew how to act in presence of the surprising phenomenon. But the youthful suitors soon became over courageous, and bent the bow too quickly to the point of breaking. The acquisition of the *Democratic Review*, and the article in the January number already mentioned, with which that periodical introduced itself as the organ of the new party, made the more thoughtful elements stubborn, and indignant those who had an axe to grind during the presidential campaign. The impression was universally so unfavorable that Douglas's partisans endeavored to create the belief, that the article was a deceitful trick of his opponents.<sup>1</sup> This ridiculous pretense did not of course deceive anyone. The friends of the "little giant" did not even succeed in producing proof that

Butler, and Houston are nowhere. Douglas is their strongest man." *First Blows of the Civil War*, p. 96.

<sup>1</sup> Pike writes on the 17th of February, 1852, to the New York *Tribune*: "The little judge (Douglas) has got to be a very nimble competitor among the loco-foco aspirants. What with his Irish organs, his Democratic reviews, and an armful of other strings, each industriously pulled, he makes a formidable show. But we predict he is overdoing the matter. Vaulting ambition o'erleaps itself and falls on t'other side. But perhaps the little judge never read Shakespeare, and don't think of this. Yet to-day there are signs of wavering in his ranks. The late leading article in the *Democratic Review* on the presidency of 1852 having given mortal offence in various quarters unfriendly to the judge's pretensions, and thus done him essential damage, it is now asserted by his friends that the article was a ruse of the enemy, for the special purpose of hurting the prospects of the small giant. This is a far-fetched explanation of that elaborate paper, but it is doubtful if it will go down. It is alleged that the proof-sheets have been found in the possession of a gentleman in this city of known hostility to the judge. This at least is made clear, that the motions of the undercurrents among the various loco-foco candidates are very brisk and conflicting." *Ib.*, p. 115.



he was informed of the article only after its publication, and in their efforts to prove it they entangled themselves in very ugly inaccuracies and contradictions. It was no use for "Young America" to advocate the preservation of decorum in congress and wear the mask of relative moderation, while the *Democratic Review* did not change its tone, but rather spoke louder in the same key. It was evidently of opinion that the fears and indignation of the old fogies should be frowned down by redoubled self-assertion and boldness. The calculation was wrong. Douglas's position was neither so high nor so firm, that public opinion, once it had become skittish, could be successfully overcome by brusque action. "Young America" might be strong enough to prevent the nomination of an old foggy leader, but the prospect, that it would be able to push Douglas through, was much smaller than a year previous. He did not need to bury his hopes forever, but his name would have to acquire greater strength and his followers greater sobriety and modesty, before he could expect their realization with any confidence.<sup>1</sup>

<sup>1</sup> On the 13th of March, 1852, Pike writes to the New York *Tribune*: "What most surprises one is that these congressmen, with beards and without; that verdant, flippant, smart detachment of Young America that has got into the House, propose to make a candidate for the Baltimore convention without consulting their masters, the people. With a few lively fellows in congress, and the aid of the *Democratic Review*, they fancy themselves equal to the achievement of a small job like this. Well, gentlemen, go ahead. The world always succumbs to impudence and intrepidity. To be sure, New York, Ohio, Pennsylvania, New Hampshire, Louisiana, Indiana, Kentucky, and we do not know how many other states, have pronounced in favor of some other candidate than yours, while we believe none have come out for him but Illinois; still this is nothing. All that is wanting is to bring the recusants over, kill off the fogies, and then set sail before the wind. Who can doubt that the little giant and his crew are the chaps that can do this? Men who are willing to come and pay five dollars a day for mule hire, and treat the voters at the rate of fifty cents a 'drink,' are coad-



Hence none of the three candidates who had unquestionably the largest following, could look very sanguinely to the result of the convention; but if none of these three were nominated, all calculation of the probability as to who would be the fortunate man, was entirely baseless. It could not even be divined to what particular fraction of the party the candidate would belong, since the party, as the *North American Review* observed, presented the picture of a perfect mosaic.<sup>1</sup> The convention which met on the 1st of June in Baltimore, therefore, postponed all other questions until the question of persons was solved in some way. But day after day passed, and the convention was not one step nearer the goal than on the first. On the first ballot, as had been expected, Buchanan and Cass stood at the head of the candidates, and their principal rival was Douglas. The latter now took the lead, and the votes cast for Cass sank to 25. When it became apparent that all Douglas could hope for was a *succès d'estime*, the

jutors to be esteemed, and adversaries to be feared. If the little judge gets the whole of these on his side, it is all day with the fogies. Query? Is General Cass a fogy? Are the supporters of General Cass fogies? This is a vital question. On it hinges the issue of the Baltimore nomination, the fate of Young America, and the destinies of a whole boat-load of politicians." *Ib.*, p. 118.

<sup>1</sup> "A more perfect specimen of political mosaic, than was exhibited by the different aspirants for the nomination, was scarcely ever beheld. Joseph's coat was but an inadequate emblem of their grotesque hues. Internal improvements and anti-internal improvements, intervention and non-intervention, the high tariff democracy of Pennsylvania and the free-trade democracy of Virginia and South Carolina, strict construction and latitudinarianism, old hunkerism and free-soil, the ribald democracy of Tom Paine and the black cockade of ancient federalism, as exhibited in Messrs. Cass and Buchanan, and last and least, old fogysm and Young America; all these principles, antagonistical as they are to each other, were advocated with apparent earnestness and sincerity by the different candidates for the honors of that convention." *The North American Review*, July, 1852, p. 1.

vote for Cass rose to 100, and, on the fifth day, Marcy was his principal competitor. Thirty-four ballots had been taken and an adjournment *sine die* began to be talked of. Then Virginia introduced a change. The delegation of the state who had thus far voted for Buchanan cast their votes for Dickinson. But Dickinson immediately and firmly declined the honor, because the Democrats of New York had unconditionally pronounced in favor of Cass. Virginia now voted for Franklin Pierce, who had previously received one vote, which remained entirely unnoticed. At the next ballot, the thirty-sixth, Maine reinforced the vote of Virginia with eight, New Hampshire with five, and Tennessee with two votes.<sup>1</sup> However, nothing yet indicated that he was the rising star. The decision was not given until the forty-ninth ballot by the change of North Carolina's vote, which was followed by that of Georgia and Alabama.

The announcement of the result was greeted with tumultuous applause. This "enthusiasm," however, is an integral part of the standing programme of every national convention. Hence the spectator must be acquainted with the circumstances and personages to know what share the respect and popularity of the candidate has in it. In this respect, a very exhaustive knowledge of American history would have been necessary to form any opinion whatsoever of the justness of it is not impossible that there were persons among the delegates, who could scarcely realize the long career of Franklin Pierce

<sup>1</sup> W. H. R. G. F. M. S. C. Proceedings of the Democratic National Convention, held at New York, 1854. A. Wise was not elected. The vote was as follows: Buchanan 100, Marcy 99, Fremont 1, Cass 1, Pierce 1, Davis 1, Adams 1, and Mississippi 1. The next day the vote was as follows: Buchanan 100, Marcy 99, Fremont 1, Cass 1, Pierce 1, Davis 1, Adams 1, and Mississippi 1. The next day the vote was as follows: Buchanan 100, Marcy 99, Fremont 1, Cass 1, Pierce 1, Davis 1, Adams 1, and Mississippi 1.

before the convention. Compared with him, even Polk, before his nomination, was a statesman of national reputation. Almost a decade had passed since Pierce had voluntarily abandoned the stage of political life, and yet he was only forty-eight years old. Spite of this comparatively youthful age, he had been four years a member of the state legislature, four years a member of the house of representatives in Washington, and five years a senator of the United States. His early introduction into political life he, indeed, owed in part to the position of his father, and in his youthful country, many a man, at an age still younger, had played a far more important part; but his was nevertheless a very notable career. And neither the arts of a low demagogue, nor any special oratorical gifts had served the young lawyer who had no claim to unusual learning or intellectual acumen, as a stepping stone to these honors. Winning manners, a sound judgment, laborious devotion to his legislative duties, absolute fidelity to party, and a certain enthusiastic current which ran through his whole being, were the only secrets to which he owed his success. As he was free from the burning ambition which the superiority and greater success of others did not allow to sleep, unsought-for honors were thrust upon him, for which much more important men labored in vain. He had been in the state legislature only two years, was only twenty-seven years of age, and yet he was chosen speaker of the house. He never, however, had been one of the real leaders of his party, and hence his name was not very extensively known. When his nomination in Baltimore made the publication of his biography a necessity, that he might be introduced to the masses of the people, it was no easy task to fill up the requisite number of pages. The eventful and honorable life of his father who had worked his way up from the



position of a common soldier in the War of Independence to that of a general of militia, and governor of New Hampshire, helped his biographer somewhat out of his embarrassment. Yet it was necessary to prove, from Pierce's own legislative activity, that he was a great statesman, but in that activity there was not much in which the great crowd took a lively interest or which excited its enthusiasm. The committees to which he had belonged, were without any political importance, and when his biographers asserted that he had not forced himself any longer forward, only because of his commendable modesty and refined tact, since the party was so rich in great men of the first rank, they bestowed praise on him which, whatever its value in other respects, was no proof of his statesman-like qualities. But, even if he was not one of the prominent leaders of the party, he was valued by them. After he had retired to private life, the Democrats of New Hampshire wanted to put him up as their candidate for governor, and Polk offered him a place in his cabinet as attorney-general. He declined both offers, as he had no longer any desire for political honors, and his family circumstances would make his return to political life a great sacrifice. But when the Mexican war broke out he tore himself away from wife and child, and began as a volunteer, to learn the alphabet of the common soldier. Polk's friendship, however, did not leave him long in a subordinate position. The man who, as a member of congress had frequently spoken very disparagingly of the military school at West Point, and who himself had no knowledge of the art of war, was, now, because of his party services, raised to the position of colonel and immediately after of brigadier-general, while meritorious officers of the regular army were left in their subordinate positions. Notwithstanding this, it was entirely wrong, on the part of the

Whigs, to ridicule this military episode in his life. If it was ridiculous in the Democrats to surround his head with a halo of military glory, he had none the less proved himself a circumspect, courageous and energetic man, who could not be denied a certain amount of military capacity. In any event, his patriotic zeal deserved recognition, for it was free from any desire of advancement although he was rewarded with the epaulettes of a general, before he had any positive achievement to show. At the end of the war, he doffed his uniform and resumed his practice as a lawyer. As president of a state convention which was to propose amendments to the constitution, his name was again frequently mentioned in New Hampshire, but his nomination by the national convention found him a private individual who did not expect ever again to play a political part outside of his own state. When the Democratic state convention of New Hampshire put him up as a presidential candidate, he had written to his friend Atherton, that the mention of his name, in the Baltimore convention, would be entirely against his wishes.<sup>1</sup> He was not so free from ambition, but that the nomination would not have subsequently filled him with lively satisfaction and pride, but he was not vain enough to wish to be made the object of purposeless demonstration. Hence that declaration of his was presumably not dishonest. Certain it is that he had no right to the nomination. Spite of the considerable time, during which he had belonged to the one or the other house of congress, and spite of the military episode in Mexico, he had always remained only a local magnate, and had, in no respect, developed qualities which would have attracted the attention of the whole

<sup>1</sup> " . . . The use of my name, in any event, before the Democratic national convention at Baltimore, to which you are a delegate, would be utterly repugnant to my taste and wishes."



people to him or have promised anything great for the future. His intellectual endowment and his character had sufficed to enable him to fulfill the public duties with which he had been charged, in the spirit of a personally honorable party man. But there his intellectual gifts and the qualities of his character found their limits. And he was not indebted for his unexpected elevation to any deception on this point. He was simply a dilemma candidate.

The principal reason why the Democratic party had to take up such a dilemma candidate was, as has been said, the personal rivalries of the real party leaders and the consequent division of the professional politicians into different coteries. But the everywhere-present slavery question had exercised its influence here too. The finality question, as we have seen, had been the cause of unpleasantness to the Democrats also, and notwithstanding their great majority in the house of representatives, the adoption of Jackson's resolution was due only to the support of the southern Whigs. A certain R. G. Scott of Richmond, had sent a letter couched in the same terms, to each of the men whose name had been connected with the presidency, in order to obtain from him an unambiguous, authoritative declaration as to what attitude he would assume towards the compromise, in case he was nominated and elected. The men so questioned pledged themselves, without exception, in their answers, unconditionally to the finality of the compromise, inclusive of the Fugitive Slave Law. A contrary or even an evasive answer would have made their success impossible, but even a candid declaration like this was an obstacle in their way. Only a small minority of the party, indeed, took umbrage at their declaration, but that minority was large enough to make it hazardous to offend it. It was, therefore, very



fortunate for Pierce that a happy accident kept this stumbling block out of his way. Horace Mann declared, in the house of representatives, that Pierce would never have been nominated, if, by answering Scott's letter, he had dissipated the ignorance which prevailed as to his relation to the slavery question.<sup>1</sup>

At the first glance, this assertion seems, to say the least, a very bold one. The platform proposed by the convention had a finality plank, which although it avoided the new technical term, was so plain, that even the Fire Eaters did not have anything further to desire on that score, and Pierce pledged himself in his letter of acceptance to the platform, with an emphasis greater than need be.<sup>2</sup> And yet the history of the campaign showed that Mann's view was not entirely baseless. While the south had sufficient security, that it could perfectly rely on Pierce, the fact that there was no express declaration of his, as to what he would do, in case congress should submit a bill modifying the Fugitive Slave Law to him, for approval, was turned to great advantage and had its effect on sensitive consciences in the north.<sup>3</sup> And it was possible to make capital

<sup>1</sup> "I say of General Pierce, that if he had been conspicuous in the pro-slavery contest for the last two years; if he had been known as the ardent lover of the Fugitive Slave Law, and had answered the Richmond Scott letter about a veto of it, he never would have received the Baltimore nomination. Some other man would have been ex-humed for the occasion. Not knowledge of him, but ignorance of him, secured his nomination." *Congr. Globe*, 1st Sess., 32d Congr., App., pp. 1078, 1079.

<sup>2</sup> "The principles it embraces command the approbation of my judgment, and with them I believe I can safely say that no word nor act of my life is in conflict."

<sup>3</sup> This happened by the clever turn given to the matter by the *N. Y. Evening Post*. Pierce, it said, did not think it worth his while to answer Robert G. Scott's letter. The simple fact once distorted into making what was either accident or low cunning, a meritorious act, it was not difficult to stamp Pierce, in contradistinction to Scott, as a

out of this, because earlier utterances of his could be cited, by which it could be proved to credulous minds, that it was an untenable calumny to represent him as a servant without a will of the slavocracy.<sup>1</sup> As against the platform and the letter of acceptance, all such things were, indeed, only so many feathers with which the least breath of wind could play, but sensitive consciences which wish

free-minded man, so far as the compromise was concerned. *The Post* continued: "Mr. Pierce did not, like General Scott, if we may believe the boasts which Scott is so fond of publicly making, procure the passage of the compromise by congress." He has none of the partialities of paternity to induce him to employ the influence of his office to put down freedom of speech on this topic." *Congr. Globe*, 1st Sess., 32d Congr., App., p. 693.

<sup>1</sup> According to the report of the *New Hampshire Patriot* of the 12th of June, 1845, he had on the 5th of that month, in a speech directed against John P. Hale, declared: "He had only to say now, what he had always said, that he regarded slavery as one of the greatest moral and social evils—a curse upon the whole country, and this he believed to be the sentiment of all men, of all parties, at the north. He was free to admit that he had himself approached this subject of annexation (of Texas) with all his prejudices and prepossessions against it, and on one ground alone—its slavery feature. His convictions on this subject were, as had been stated, strong; not the result of any new light, but deeply fixed and abiding. The only difficulty in his mind ever had been that of a recognition, by any new act of our government, of the institution of domestic slavery; and he had found it extremely difficult to bring his mind to a condition impartially to weigh the argument for and against the measure."

And on January 1, 1851, he had said in the state convention mentioned in the text: "I would take the ground of the non-extension of slavery—that slavery should not become stronger. But congress have only re-enacted the old law of 1793. Union-loving men, desiring peace and loving their country, conceded that point, unwillingly conceded it, and planting themselves upon this law against the outburst of popular feeling, resisted the agitation which is assaulting all who stand up for their country. But the gentleman says that the law is obnoxious! What single thing is there connected with slavery that is not obnoxious? Even the gentleman from Marlborough (an abolitionist named Batcheler) can not feel more deeply than I do on this subject."



to be deceived are satisfied with very little. What difficulty could there be in deceiving those who *urbi et orbi* announced that they found no difficulty whatever in getting over the objectionable planks in the platform, on Pierce's attitude towards the slavery question and the slavocracy? Once the declaration was made that they were not a part of the genuine Democratic creed, the matter was settled.<sup>1</sup>

The sensitive consciences of the Democratic party proved more demoralized than the unadorned train-bearers of the slavocracy, for they wrapped themselves closer in their cloak of virtue and descended to conscious self-mendacity, simply that they might not be untrue to a party which had ceased to represent any political idea or any moral principle. Was any further proof of this needed but the justification adduced by the sensitive consciences, for their course? They asserted that the party platform set up by the convention had not the least claim to that title, since the greater number of delegates was not even

<sup>1</sup> The *Buffalo Republic* writes: "We affirm that we and the Republic cling to our Free-Soil principles, and cherish them, as the apple of our eye. And we not only cling to them and cherish them, but defend them as manfully as we can, whenever an enemy worthy of notice presumes to lift his pen or wag his tongue against them. . . . But, say some of the grumblers, by supporting Pierce and King, you are supporting the platform which was made when they were nominated, and which you repudiated. We deny that we ever repudiated the platform. We repudiated the rotten planks that were foolishly put in to widen it; and we repudiate them still. We say the old Democratic platform was wide enough, and good enough, and the meddlesome fellows who put in those rotten planks did it without authority, and deserve to be booted by those who employed them for meddling with that which was none of their business. We support Pierce and King, and recognize as ours the old Democratic platform—not the rotten planks." *Congr. Globe*, 1st Sess., 32d Congr., App. p. 1027. The *N. Y. Evening Post* and the *Albany Atlas*, adopted the same view.



present at its adoption, and of those present only a dozen knew what was going on; hence the voting of the resolutions did not deserve even the name of a farce.<sup>1</sup> But what name does a party deserve, whose representatives hold out for days like sentinels on guard, so long as the question was the leader of which coterie should be acknowledged to be the real head of the party, but who go home or to the tavern, or busy themselves in some other way, when there is question of drawing up the party programme or establishing party principles, so that this task is left to a handful of conspirators? If the description of the sen-

<sup>1</sup> Stanley in a speech of the 12th of June, 1852, read the following selections from leading articles in the *N. Y. Evening Post*: "The resolutions were adopted by those who nominated the candidate. They were not put till a large number of the members had withdrawn; they were not debated, not considered, not even heard; a considerable number of members voted against them, and those who said aye, did not know what they were giving their applause. The pretense of passing resolutions, of adopting a platform of political belief, under such circumstances, is the merest farce in the world—a proceeding as destitute of moral force as if the resolutions had been adopted by a dozen chance travelers on board a steamboat."

"But whether the resolutions are good or bad we regard as a matter of very little moment. They undoubtedly speak the sense of the committee who framed them, but in no respect can they be considered as speaking the sense of the convention."

"With regard to the resolutions said to have been adopted by the convention, just before its close, called in some quarters 'the platform,' we reassert, in stronger terms, what we said yesterday. Further inquiries into the circumstances satisfy us that, in saying that they did not express the sense of the convention, we used the least expressive phrase the case would justify. They were not adopted by the convention. Three-fourths of the members—more than three-fourths, it is said by some—had left the room; not more than a dozen of the rest knew what was doing."

"A platform made in this manner does not even deserve the name of a farce, which we yesterday gave it. A farce is played before an audience which is aware of what is going on." *Congr. Globe*, 1st Sess., 32d Congr., App., p. 693.

sitive consciences was not a creation of the fancy, the national convention of the Democratic party was, in truth, a conventicle of interested men, to come to an agreement on one material point in regard to the distribution of the spoils, and the party which allowed such a conventicle to be palmed off on it as a national convention, had lost all right to existence.

But it mattered not, how many or how few delegates had taken part in the vote on the platform, that platform was unquestionably the genuine creed of the party. The question was not, what principles it had once confessed, but what views it now cherished. It did not matter how a great number of individual Democrats might think, the immense majority of them, that is the party, did not take the least offence at any point in the compromise, because it was opposed to the demands of freedom and humanity; and hence they dismissed every thought of renewing the agitation in order to carry an amendment of it in this sense, with the decision of conviction—but this it was that was expressed in that resolution. The Democrats had anew, and more unreservedly than ever before, bound themselves to the slavocracy, for their first wavering on the finality question ended in the resolve to ignore the moral elements contained in the political problem brought forward by the slavery question.

This was, henceforth, by far the most important point in the confession of faith of the Democratic party, for, although it was never put into words and was of a negative nature, it soon led to the most important positive consequences. Leaving one sole point out of consideration of which we shall speak presently, the rest of the platform was devoid of all practical interest, for the reason that it contained only what the *Evening Post* designated as the genuine creed of the party. As there was nothing to be



said about the tasks of the future, all kinds of old weapons were collected from the armory of the past, with no other object but that of filling up empty space.

The one sole point which contained something new, was a concession of the old fogies to young America. But it was worded so cautiously and so generally that the party could quietly allow the resolution to remain a dead letter, without exposing itself, in any serious way, to the reproach that they made use of big words to cover up their want of courage to act. But the same vagueness permitted them, under the pretext, that the party had openly announced its intentions and that they had been approved by the people in the presidential campaign, to plunge the republic into adventures of every kind. Whether that or this should happen, had to depend on circumstances and on which fraction within the party obtained the upper hand. If the latter happened, the people had no right to complain that they had unexpectedly been carried, by the politicians, into a course opposed alike to their will and their well-understood interests. Young America did not conceal how it understood this part of the platform. The principal organ of the vigorous progressive party, whose enthusiasm had its seat much more in their heads than in their hearts and their blood, explained the resolutions as a declaration that the United States, in its foreign policy, had not only negative but positive duties to fulfill, and that, considering the situation of free institutions in Europe, the Democratic party, as the party of the people, had high and holy duties incumbent on it.<sup>1</sup> In its number for May and June, the *Democratic Review* published a long article: "The Crisis in Europe. Intervention of the United States." And for the benefit of those to whom

<sup>1</sup> The *Democratic Review*, June, 1852, p. 486.



these hints were not sufficient to enable them to recognize, in what direction young America was moving, the *Review* said that the Democratic platform meant the full expansion of the United States in all directions—in all directions, the east not excepted, for now it would fulfill its great destiny, and lead the people of the old world, under the banner of freedom, to victory over the tyrants of the Holy Alliance.<sup>1</sup>

If young America was really confident, that Pierce and the whole party would adopt this interpretation of the platform and give expression to it, in deeds, it could not be difficult for them to console themselves for the defeat of Douglas. That fraction had never attached much importance to his person; it advocated its programme so zealously, not so much for its own sake, as because it was its programme, and because the triumph of that programme was its interest. Doubtful as was its right to make "progress" its watchword, it was unquestionably entitled to call its opponents, inside of its own party "old fogies," for it was truly the light-headed, light-hearted and politically

<sup>1</sup> "With that platform we are satisfied. It is, as we said, 'O K' (all correct), and means Cuba, and all the islands on the main and in the gulf; it means Canada, and all north, at the proper time; it means the re-assertion, vigorously and practically, of the Monroe doctrine in Central America and on the Isthmus, both of Tehuantepec and Granada; it means full expansion, north, south, west, and moreover east.

. . . The suffering world will crowd round the elect of the great democracy as round a savior and avenger. The mailed hands of tyrants will be stayed, and prison bars will give forth sweet music. America springs to her position among the nations, and the oppressed of the earth, the German, the Italian, the Pole, the Hungarian, the Irish, the conjoint victims of that vilest and most fearful of conspiracies, the Holy Alliance, who derive new strength, and higher and more certain hopes, from him whom a great nation has sought out in the valleys of the White Mountains, to lead its youngest and greatest generation to the battle for the world's liberty, and to the fulfillment of its magnificent destiny." *Ib.*, p. 492.

light-conscienced party. Hence it was not, after all, entirely without cause, that the *Democratic Review* uttered a shout of jubilation over the Baltimore convention and its results, although its candidate was defeated and although it had not won a decided or even an entirely incontestable victory on a single point. Its claim was well-founded, that the convention had really accomplished wonders by satisfying everybody, but this was possible only because it had approached all the questions, questions of persons as well as questions of things, on which it had spoken or been publicly silent, with a light head, a light heart, and a light political conscience. In all that it did, or omitted to do, the convention was so devoid of all moral earnestness and consciousness of responsibility to the nation, that the *Democratic Review* was able to credit it with the further merit of having proposed to the nation so obscure a worthy for its chief,<sup>1</sup> and at the same time,

<sup>1</sup> "The Democratic convention of 1852, dates one of the noblest contests in America. In difficulty of accomplishment, in the conclusive and happy effect of the victory won, in the immense mass of old and noxious lumber which it swept out of the path of democracy, and in the magnificence of the prospect for the future, it is without precedent or parallel. For the first time, at all events since Jackson's days, and probably since the days of Thomas Jefferson, democratic principle has been stripped of every cloak, and muffle, and mask, and restored in its purity to be the ruler and the queen of the republic. . . . Six months ago, when we inaugurated this new era, there was scarce a single man who did not believe that the purification of the Democratic party, upon which we entered, was a madness and a Quixotism. Our nominal platforms were meaningless, and powerless, mere stable echoes of the thunder which had long died away. The debris of half a dozen years of sectional war, the fragmental ruins of half a dozen small, and more or less factional, battle-fields covered the earth; the prominent and seemingly more fortunate aspirants to office, offered themselves without a single new thought, or old one, which could be called a principle, loaded with the political debts and promises of years, and burdened with antecedents which rendered it utterly impossible that the Democratic party could combine on any of them. We



to expect that the whole world would hail this newly discovered magnate as its savior and avenger. Others besides the editor of the *Evening Post* might feel tempted to put the question whether, in all earnestness, the political life of the United States was to be turned into a farce?

The Democrats had made it really easy for the Whigs to manifest greater political and moral capacity, and thus to recommend themselves to those circles of the people in which intelligence and patriotism preponderated over mere party spirit. Their national convention which also met in Baltimore, on the 16th of June, seemed to wish to do this, in, at least, one respect. Duncan, of Louisiana, demanded that they should get done with the platform before proceeding to the nomination of candidates, because it was necessary, above all things to be assured that they constituted a party.<sup>1</sup> The question of persons was to be

have got rid of all these. We have removed obnoxious and overweening leadership, and combined our party. By a kindly resolution as to the past, we have wiped away the score of the war of sections, and without outraging the affections, or perilling the interests of any, have satisfied all. No difficulty has been too great for the convention to master, no tender point too small to escape its attention. With a patriotism as magnanimous as it was unflinching it complimented the old, while it adhered to the new. After a race the most exquisite ever run, a race of 'four miles, and repeat, and repeat again,' it pleased itself by honoring the claims of every candidate before it: it allowed the old to be jockeyed and the young to slip forth and show its bottom and power: and then, after forty-nine ballots, the whole body representative of the progress of thirty millions, threw itself upon even a younger, and a man more unpledged and unknown than any before it, and nominated him as its candidate for the presidency. It buried the claims of a past generation in presence of the necessities of this, and has brought young blood, young hearts, and young ideas to the councils of the republic." *Ib.*, p. 482.

<sup>1</sup> "Gentlemen, we want to know, in all honor and candor, who you are. We want you to show us your hands and we are prepared to show you ours. We want to know who we are, and whether we are all of one party or not." *New York Tribune*, June 18, 1852.



subordinated, therefore, to the convictions of the convention, and all interested games with the creed of the party to be given up. If this were done, it would be a great step in advance, for nothing so marked the universal political demoralization and contributed so much to it, as the untruthfulness of principle with which the politicians had familiarized all parties and especially the Whigs. Duncan's motion, however, was at first withdrawn, that the credentials might be examined. This was in itself right, but it made it immediately apparent that the differences as to measures were intimately connected with differences as to persons, and that the parties within the party were as strongly opposed to one another as they had been in the Democratic convention. The liberals complained bitterly, that the committee had assigned all the contested seats to the anti-Scott delegates, and charged the Fillmore fraction who wished to pledge the adherents of Webster to themselves, with the alleged unfairness.

Another preliminary question placed these differences in a still more glaring light. To the motion, that the committee on resolutions should consist of one member from each state, Jessup, of Pennsylvania, introduced an amendment providing that each member of that committee should have as many votes as his state had in the electoral college. The amendment was adopted by a majority of six votes. This was a resolution of great scope, so far as principle was concerned, and it might, moreover, be decisive of the platform and, through the platform, of the existence of the party.

The so-called national nomination conventions could never be a correct representation of parties, because, without any regard to the strength of a party in a state, each delegation was allowed as much weight in the nomination, as the state had in the electoral college. But if now still

one more vote was given to each state as such, there could no longer be any representation whatever of a state, in the proper sense of the word. There was, indeed, question here only of a committee which might, it is true, make a proposition, but pass no binding resolutions. In such assemblies, however, the report of a committee is, as a rule, practically decisive of the resolutions of the assembly. But, since such work as the formation of the party programme must naturally be prepared by a committee, this mode of its formation might be just as good as any other, if the party was, in that which is essential, one and clear as to what it wanted. But the affair assumed an entirely different appearance when there were far-reaching differences, and when these were, moreover, marked by a geographical line. Then, it might very easily happen, that a committee composed in this way, would find it impossible to give expression to the real views of the majority of the convention, to say nothing of the majority of the party. But if such an expression is wanted, and this way of forming the committee is wont to be chosen only on some ground of expediency and independently of any principle, there was evidently no reason for departing from it, in a case such as that mentioned above. The only object of a national convention is to give expression to the views and will of the party. But if, in such a case, a different formation of the committee on resolutions is refused, it can be only for two reasons: either a possibility is sought to falsify the true views of the party, or the party is not allowed to be a compact whole, and it is claimed that its convictions and its will find expression in an authoritative way only when it acts according to states, and when the party adherents of the several states, without respect to their number, are looked upon as constituent elements of the party, having equal value. But this led to a flagrant self-contradiction,



as the claim was not made that the same principle should be applied to the binding resolves of the convention itself, and besides this it ran directly counter to fundamental ideas in the provisions of the constitution relative to the election of the president. The constitution did not treat the states as equal in value, but gave them in the election for president the same weight that they had in congress, devolving the decision on the representations of the states in the house of representatives, with equal right, only in one very definite exceptional case, which had happened twice in two generations. And yet Dawson, of Georgia, who spoke for the south, based his opposition to Jessup's amendment solely on this reasoning, that is, as he correctly formulated it himself, on the "sovereignty of the states." His objection that Jessup's amendment sought to transform the country into the wildest democracy was utterly untenable,<sup>1</sup> for it only applied the fundamental idea of the constitution to the conclusions of the committee on resolutions, and that was the extreme limit to which, under the prevailing circumstances, regard for the states could rationally go. There was no question of democratization, but account was to be taken, in the committee on resolutions, of the fact, that the Whigs were not a combination of so many state parties, with like tendencies, but a national party of the United States. On the other hand, Dawson's claim that the resolution of the convention alienated the "sections" from one another was well founded, although the intention to do so was very far from Jessup's mind.<sup>2</sup> Not because there was a radicalizing of the

<sup>1</sup> "This is the first attempt which has ever been made to convert this country into the wildest kind of democracy—the democracy of numbers." Wilson, *Rise and Fall of the Slave Power in America*, II., p. 367.

<sup>2</sup> "The wildest effort that was ever made to alienate one section from another." *Ib.*, II., p. 368.



democratic principle in the amendment, but because it ran counter to the interest of the slavocracy and threatened to curtail the undue influence of the slave states, did he declare that he would "abandon the party if it proved untrue to its principles."<sup>1</sup> And because the convention knew, that the threat was not a vain one, and that a great part of the southern Whigs thought as Dawson did, it dropped its resolution, when an almost pathetic speech of Jessup's, in which he gave the assurance that the south would be satisfied with the northern delegates, had not made the desired impression.<sup>2</sup> The north had as usual allowed itself to be terrified<sup>3</sup> out of its victory, and the triumph of the south permitted no further doubt as to how the struggle over the finality question would end.

Ashman of Massachusetts, who had so zealously covered Webster's rear, when so many of his old friends had fallen upon him like a swarm of hornets, because of his speech of the 7th of March, was chosen chairman of the committee on resolutions. The south, in this way, killed two birds with one stone. In accordance with its old practice, it confided the care of its interests to a northern politician, and it, moreover, allured the Webster fraction, which might take this attention to mean that its subservience on the chief question would bring it the expected reward. But there was no longer any need of such means to insure its fidelity. Stephens relates that the south had

<sup>1</sup> "Whenever the party abandons those great principles, so help me God, I will abandon it." l. c.

<sup>2</sup> "I affirm, from my intercourse with the delegations of these three great states (Pennsylvania, Ohio, New York), that they stand upon a position which I believe our southern brethren will appreciate most fully." *Ib.*, p. 367.

<sup>3</sup> The *National Era* wrote: "Their wrath is always greater than their endurance. They are remarkable for kicking out of the traces, but still more remarkable for kicking in." *Ib.*, p. 368.

submitted its demands to Webster, and that the latter had not only approved them, but that he had even underscored the decisive words. These demands were put in the form of resolutions and were capped by a finality declaration which was essentially identical with the former finality declaration, but which in the incisiveness and emphasis of its expressions, surpassed them all.<sup>1</sup> The only thing new was that the "nationality," that is the existence of the Whig party was made expressly dependent on the assertion of this view. In this was expressed what the Marshalls, Stephens, etc., had repeatedly declared in the house of representatives: that if the northern Whigs did not accept the finality of the party programme, the southern Whigs would dissolve their party association with them. But the gentlemen did not wish to run the risk, that the liberals would not finally draw the correct conclusion from this appendage to the finality declaration. The Georgia delegates loudly proclaimed to all who cared to hear it, that all the representatives of the southern states would leave the convention, if the north did not submit on this point. It even now leaked out, that the

<sup>1</sup> These so-called southern resolutions, are printed in full in the *N. Y. Tribune* of the 17th of June, 1852. The eighth reads: "Resolved, That the series of measures known as the compromise, including the Fugitive Slave Law, are received and acquiesced in by the Whig party of the United States as a settlement in principle and substance—a final settlement of the dangerous and exciting subjects which they embrace, and so far as the Fugitive Slave Law is concerned, we will maintain the same and insist on its strict enforcement until time and experience shall demonstrate the necessity of further legislation against evasion or abuses, but not impairing its present efficiency, and we deprecate all future agitation of the slavery question as dangerous to our peace, and we will discountenance all efforts at the renewal or continuance of such agitation in congress or out of it, whenever, wherever, or however the attempt may be made, and will maintain this system of measures as a policy essential to the nationality of the Whig party and the integrity of the Union."



Webster fraction would join the secession of the southerners and Webster then be put up as the Union candidate.<sup>3</sup>

It was not without significance, that the gentlemen from Georgia who had already taken so prominent a part in the transactions relative to the committee on resolutions, now felt themselves again called upon to become the mouth-piece of the south, on the occasion of the announcement, that it was resolved to place a categorical alternative before the liberals. It had already been frequently pointed out, that the so-called national conventions were a very defective makeshift. Not only was the choice of delegates made without any legal control, but the system followed in them was so little calculated to attract the masses of the population to participate in them, that the conventions were much more a representation of the politicians than a representation of the party. Hence the complaint had been frequent, that federal officials had exercised an undue influence on the election of delegates and on the resolutions of the conventions. But an administration had never before been so loudly reproached for having shamefully used the patronage of the government to secure the sending of its own delegates to Baltimore.

<sup>3</sup> The N. Y. *Tribune* was telegraphed from Baltimore on the 18th of June: "The Georgia delegates say that if a platform, with the compromise as a finality, is not adopted before the nomination, the whole south will leave, and that the Webster delegates will follow—form a new convention, and nominate Webster, who will stump the Union as the 'Union candidate.' This, I am assured by a distinguished Georgia delegate, is the course determined on."

And from another quarter was written on the same day: "If the southern resolutions of yesterday are adopted by the convention, Scott will be nominated without doubt. If the resolutions are not adopted, several southern states will withdraw from the convention. I have the authority of John M. Botts, who is considered the mediator between the northern and southern divisions, for this.

"Other reports say that if the southern resolutions are adopted, as the price of voting for Scott, Pennsylvania will drop him."



The Seward Whigs even asserted, that, so far as the northern Whigs were concerned, a Fillmore fraction would not exist at all in the convention, if these unsavory arts had not been practiced so regardlessly.<sup>1</sup> Their irritation caused them to exaggerate greatly, although the truth was bad enough to make a laying on of the colors superfluous. The work, especially in some of the southern states, was done chiefly by the administration machinery, and Georgia might easily have remained unrepresented, if the administration had not tendered her the body guard of the officials dependent on it. By the formation of the Union party, the Whigs had really ceased to be a compact party there. It was not the Whigs of the state who, in that threat, spoke through their properly elected deputies, to the

<sup>1</sup> Pike writes on the 2d of June to the *N. Y. Tribune*: "We believe it to be a fact that the patronage of the government was never more directly and determinedly used to further the personal aims of the president than now. We do not think it will be denied by any unprejudiced, well-informed man that Mr. Fillmore would not get a single vote in convention from the free states (out of abounding liberality we might except the Buffalo district,) but for the exercise of the influence and patronage of the government to procure delegates. And we believe it to be equally true that, but for the same influences, neither Georgia, nor South Carolina, nor Alabama, and probably neither Arkansas nor Texas, would send delegates to the convention. What, for example, can be more palpably the work of custom-house officers and agents and wire-pullers of the administration than the recent skeleton caucuses at Charleston and Mobile? And what more plainly the offspring of the same agencies, and at the same time more preposterous, than the proposed representation from Georgia? A most distinguished former Whig politician of that state has lately declared that the delegation from Georgia in the Whig national convention will not represent a constituency of 200 voters in the state, all told—by this statement meaning to convey the idea that there is no Whig party proper at this moment in the state, acting independently of the 'Union' organization, which party organization declared it would send no delegates to the Baltimore convention." *First Blows of the Civil War*, pp. 143, 144.

national convention,<sup>1</sup> but a number of Whig politicians of the state which made much of itself because of the formation of the Union party, presumed on their own initiative and responsibility, in the name of the whole south, to fling the gauntlet into the face of the national representation of the party, and the latter allowed them to dictate the law to it.

The decision was made before the great question was submitted to the vote of the convention. Spite of this, a pressure was exercised which subjected the liberals to a still further humiliation. But Botts of Virginia, who had from the first mediated between the more radical elements, had now undertaken the tactical leadership. Hence it is certain, that a new mortification was not intended. The moderate Whigs of the southern states who saw, in the disruption of the party the introduction of a species of political chaos, feared the imperilling of the finality policy if, at the last hour, the possibility was given to the hot-spurs on the right side and the left, to vent their views on the question and to talk themselves and the convention into a passion. Hence they had recourse, once more, to the gag system which had been already so ruinous in its

<sup>1</sup> Thaddeus Stevens said on the 12th of August, 1852, in the house of representatives: "The state of Georgia, as any gentleman from that state will bear me witness, had disbanded the Whig party, and never would have thought of sending delegates to that convention had they not been stimulated by an express from Washington. The constituents of the delegates who cast the vote of that state were members of congress whom I daily see around me, and heads of departments, and not the people of Georgia. Why, sir, that same messenger extended his journey to Charleston to search for Whigs enough there to represent South Carolina. It is said that, when he got there, and they were all mustered, they amounted to three, and that the rest of that delegation was composed of custom-house officers from the city of New York. (Laughter.)" *Congr. Globe*, 1st Sess., 32d Congr., App., p. 1028.



consequences to the south, although it always rendered it excellent service in the attainment of its immediate ends. After Ashman had read the resolutions, Choate of Massachusetts, and Anderson of Ohio, delivered speeches which might be admired by their friends as oratorical efforts, but which, judged from a political point of view, were very far from reaching the height demanded by the situation. They were followed by Botts who closed his remarks by moving the previous question. The request to withdraw that motion he refused, because the decision on the platform should not be longer delayed. The consequence of this declaration was, that the convention, for several minutes, looked more like an excited mob than a parliamentary meeting. The president had lost all control over it, the secretary forgot that he was not president, all spoke at once and endeavored to outcry one another. But nothing is ever achieved by such doings, when the opposition is, from the first, resolved not to go beyond words. Botts and the majority did not allow themselves to be terrified by cries and gesticulations. The opposition ceased its noise, when it had become convinced that the majority were resolved not to hear it and that further resistance could only excite them to make the refractory feel their force all the more sensitively.<sup>1</sup> Finally, the bal-

<sup>1</sup> Pike gives the following description of the scene: "When the call for the vote of the states on the adoption of the platform was begun, as it was immediately, amid great uproar and excitement, and the general cry of everybody that it was best to let the platform go through, rather than hazard Scott's nomination by any resistance, except by a silent vote, a division of the question was demanded. Not only the majority of the convention, but the president and secretary, were in a state of great heat and excitement, and pre-determined to force the platform down the throat of the convention, *volens volens*, without giving any chance for resistance, and without reference to the rights of the minority. While the demand for a division of the resolutions was pressed there were hisses and cheers and all sorts of



lot was taken, and the finality resolution adopted by 227 against 66 votes. By an overwhelming majority, the national convention had pledged the party to Webster's position on the slavery question, without allowing a debate on the resolution which might be decisive not only of the continuance of the party but of the existence of the Union.

The conservative politicians breathed deeply, as if a mountain had been taken from their breast. They thought that they had saved the party, and thus guided the ship of state out of the breakers into smooth water. What attention did the little band of agitators and alarmists deserve, after both national parties had hurled their anathemas against them and pledged themselves, that the compact of 1850 would be inviolably preserved, and the temple of the woolly-haired Janus never again be opened? If this was at all within the will of men, the hope might be realized provided two conditions were fulfilled: that the few hundred politicians of the two conventions really represented the views of the people, and that they had themselves accomplished the permanent ratification of the trade completed two years before, with full honesty of con-

noises, and calls to order by the president, and over all the leathern throat of the secretary bawling at the top of a stentorian voice for the vote of the states, in total disregard of propriety and of the authority of the presiding officer. At length, however, the ear of the president was gained, who finally very reluctantly listened to the demand for a division. There was a palpable determination on the part of the convention and its officers to dragoon the minority on the compromise resolution. Everybody understood this in advance, and no one, therefore, felt inclined to subject himself to indignity needlessly; and this disinclination was heightened by the reflection that any determined effort of resistance would damage Scott's chances, already weakened by outrageous exclusions of delegates friendly to him, by the corrupting influences of Wall street and State street capitalists, by the shameless prostitution of government patronage, and by the implacable opposition of southern filibusterism." *First Blows of the Civil War*, p. 152.

viction and absolute purity of intention. As regards the first, it was easy to be honestly deceived at the time, but the second was answered in the negative, with terrible clearness, by the further course of the convention.

The number of fruitless ballots for a presidential candidate surpassed even that which had preceded the nomination of Pierce. And yet, the very first vote showed the situation so clearly that the end might have been reached as easily by the second as by the fifty-third. Fillmore received 133, Scott 131, and Webster 29 votes. The conservatives could, therefore, at any moment, effect the nomination of a man with their own tendencies, if they had come to an understanding on one of their two candidates. As their common opponents could not carry the nomination of their candidate, it was intelligible that this did not happen immediately, since each of the two conservative fractions hoped, by stubbornly holding out, to induce the other to yield; but it must have appeared undoubted, that they would unite at last. On everything but the question of persons, they were fully agreed, and although the Webster delegates stood by their choice with almost fanatical zeal, there was no animosity on the one side or the other, in respect to the question of persons; the Webster delegates would have much preferred to see Fillmore than Scott, and the Fillmore delegates Webster than Scott, in the presidential chair. Still Scott was at last nominated by 159 against 133 votes, of which 112 were for Fillmore and 21 for Webster. That was the price paid for the acceptance of the finality resolution.

We have already cited, in the notes, the testimony of several observers, who had the best opportunity for accurate information, on the spot, to prove that, from the beginning, this compromise was worked for, and that it was pretty certain it would be made. But documentary proof



can be adduced to show that the results of the convention were based on this trade between the liberals and the southern conservatives.

Henry J. Raymond, editor of the *New York Times*, and one of the delegates from New York, telegraphed to his paper, on the 18th of June, from Baltimore, that presumably, on the next day, the delegations of some of the border states would turn the scales in favor of Scott, and that if this did not happen, the south would be accused of breach of faith.<sup>1</sup> Raymond was taken to task by the convention, on account of this dispatch. He called attention to the fact, that he did not assert that a trade had been formally made, and did not wish to assert that one had. But the Seward Whigs, when they yielded on the question of the committee on resolutions, and, subsequently, in respect to the finality resolution, considered that the consideration therefor, on the part of the south, was to consist in Scott's nomination. After all that was said and done, in the convention, it might have assumed that the south understood this, and hence it would have been accused of a breach of faith, if it had not agreed to Scott's nomination, after it had received what it desired.<sup>2</sup> This explanation was

<sup>1</sup> The dispatch reads: "To-morrow, it is believed Kentucky, Tennessee, Virginia, and one or two others will give Scott the nomination on the third or fourth ballot. The northern Whigs gave way on the platform with this understanding. If Scott is not nominated, they will charge breach of faith on the south. The Webster men count on an accession of all the Fillmore votes, and vice versa. Both will probably be disappointed." A. Maverick, Henry J. Raymond and the *New York Press*, p. 122.

<sup>2</sup> "I asserted then, and assert now, that in giving way as they (the northern delegates) did, upon the platform—in conceding, as they did to their brethren of the south, an important position, and which you know, as well as I know, was and still is, quite as dear to them as your position and your principle can be to you,—the northern Whigs did it in the belief, and with the expectation, that they would be met in a



received with loud applause, and Raymond was considered perfectly justified. The convention hereby admitted that a trade had, indeed, been made, although Raymond himself questioned the propriety of employing the disagreeable word, because on neither side were the conditions made in express terms. The question was as to the matter, not as to the form.

It was a sorry trade, and it is hard to say which side had the worst of the bargain, and which challenged indignation at, or perhaps called for sympathy for, its political and moral weakness, most. What value had the finality declaration for the south now? As it had been bargained for, it was ridiculous to represent it as the expression of a conviction; it was, so far as the one-half of the party was concerned, an obligation entered into simply from business considera-

similar spirit of concession and conciliation by the Whigs of the south. They did it with this understanding on their part. And if they had proved to be mistaken; if after all that had been done and said and seen in this convention; if after the south had carried every vote but one against the north; after the whole business of this convention had been planned and its whole character shaped by a majority of states as such, instead of the majority of numbers; after the important amendment of the gentleman from Pennsylvania (Judge Jessup), securing to the democracy of numbers, so much distrusted by the senator from Georgia (Judge Dawson), its proper consideration and weight, had been carried by a decisive vote; after the Whigs of the north had voluntarily receded from this position and surrendered their part which they had gained, and which was justly theirs; after they had withdrawn that amendment and handed back the supreme power to the oligarchy of states, for the sole purpose of promoting harmony and conciliating their southern brethren; if after all this, and especially, if after they had gone still further and conceded the platform dictated by the south, repugnant as it is, and as you know it is, to their principles and feelings; if after having done all this for the sake of promoting harmony in the party and securing to it unity of feeling and of action, you of the south had not met them in a similar spirit, and conceded to them the poor boon of the candidate of their choice, I tell you now that you would have been exposed to the charge of bad faith." *Ib.*, pp. 134, 135.

tions and very unwillingly. Was it not self-evident, that it would be cast off as a burdensome yoke, on the first opportunity, especially as one-half of the representatives of the northern states had voted against it? The most influential organ of the Seward Whigs was the *New York Tribune*, and Horace Greeley, the editor-in-chief of that paper, had, immediately before the meeting of the convention, demanded a Free-Soil plank in the platform, if there was to be a platform.<sup>1</sup> Was it believed that Greeley had been transformed into an honest finality politician, because, spite of the resolution, he continued to agitate in favor of Scott's election? He announced and proved to the people, with much zeal and emphasis, that it was a foolish untruth to assert that the platform expressed the unanimous views of the party.<sup>2</sup> And Thaddeus Stevens, one of the principal leaders of the fraction, denied all binding

<sup>1</sup> On the 13th of June, 1852, he writes to Pike: "If we must have a platform, do help put a free-soil plank in it. It would almost act as chloride to a compromise infection. I pray you look to this. It will give us five thousand votes in this state alone, and we may need them. It will be worth much in all the west. Don't forget. If they put a compromise resolve upon you, vote No on a call of the yeas and nays, and it will be neutralized. Give them the same privilege on free-soil." *First Blows of the Civil War*, pp. 146, 147.

<sup>2</sup> The *New York Tribune* writes: "They were never intended to be a statement of the grounds whereon the Whig party is united and the ends which it unanimously meditates. On the contrary, they were forced upon a portion of the delegates in full view of the fact that they did not express their convictions—were driven through by the argument of menace and terror—were rammed down by the potent intimidation: 'Swallow in silence or we bolt!' Yet in the face of every entreaty and threat, sixty-six of the delegates, (seventy as we count,) voted No, when the yeas and nays were called on their passage. Here was one-fourth of the convention whom not even the imperiling of the nomination of their beloved candidate and the prospect of breaking up the party could deter from protesting against the gross wrong." *Congr. Globe*, 1st Sess., 32d Congr., App., p. 881.



force to the platform, in a public session of the house of representatives.<sup>1</sup>

The gentlemen acted precisely like the Free-Soil Democrats. Not one of them was a Scott partisan, in the same sense as the Webster fraction was really a Webster party. They had held so stubbornly and firmly to him, from considerations of expediency, and among these considerations of expediency, the second place was given to the conviction, agreeing with their own view, that Scott would not be looked upon in the free states as a finality politician. Would they, then, have purchased Scott's nomination, at the price of the finality resolution, if they had not intended, that, spite of it, that hope might be realized? And did not human nature strongly suggest, that Scott would go to the very limits of what his political conscience allowed, not to disappoint this expectation of the men to whom he was indebted for his elevation to the presidential chair? A perfectly frank and honorable course of the candidate was therefore excluded by the situation created by the convention, for he could not accept the nomination without accepting the platform, nor accept the platform without a mental reservation. The two fractions had made a dishonest bargain with one another, and hence the attitude of the candidate to both must have been more or less covert and dishonest. The more honest he endeavored to be, the more probable it was, that both sides would feel they had been deceived. And it was to be expected that Scott would endeavor to accomplish the impossible and do justice to both sides, for he was very far from entertaining the same views on the slavery question as Seward and Greeley; and as, hitherto, he had concerned

<sup>1</sup> "I admit that the platforms framed by such conventions can have no binding authority upon the people, especially as the people never delegated to them the power to construct platforms." *Ib.*, p. 1028.



himself with politics only at intervals and as a dilettante and amateur, it is to be presumed that his code of political morals did not vary so much from that of private morals, as is often wont to be the case, with those who have been professiona' politicians from the first.

The Seward Whigs did not for a moment ignore that he would have to tack about, but they considered it self-evident that he would do so under their guidance. Pike tells us that they had Scott's promise that he would do justice to their views in his letter of acceptance, if they met with the defeat they feared, in the platform. A number of letters of acceptance was drafted and laid before him. Seward and Greeley went to the trouble of elaborating that important document for him. After full consideration, an understanding was arrived at, as to its wording, and Scott gave his assent to it. But when he was now informed of his nomination, he telegraphed back, that he accepted it and the subjoined resolutions. Those southern conservatives, who had been resolved from the first not to trust him, endeavored subsequently to interpret in their own sense, and take advantage of, the fact, that in that first information the expression finality had not been used and that, therefore, it could not be known, whether Scott had pledged himself to the resolutions in their real form. But he repeated the alteration in his letter of acceptance of June 24.<sup>1</sup>

Scott thereby thwarted the shrewd manœuvre by which the liberals had wished to pacify their consciences and actually to make the old device, to agree to disagree, the motto of the party. The letters which were to get rid of the platform by slight-of-hand, remained unpub-

<sup>1</sup> It is printed in the *N. Y. Tribune* of June 30, 1852.

lished.<sup>1</sup> But was it, therefore, known where Scott really stood?

The letter of acceptance was not interpreted, by one side or the other, to mean, that he had gone over, bag and baggage, to the camp of the finality politicians. Among the southern conservatives, complaints did not cease, that he did not speak his mind freely, and that he lurked behind phrases liable to too many interpretations; and the liberals themselves, in their first fit of displeasure, did not accuse him of desertion but of want of skill.

The Whigs, as they had done four years previously, spite of their platform, marched into the electoral campaign with a muffled banner, but in untruthfulness they had taken a great step forward. Their platform was untrue, untrue the attitude of the two political fractions of the

<sup>1</sup> Pike prints the letter of acceptance drafted by Greeley and prefaces it with the following remarks: "General Scott was supported by the Wilmot Proviso men, and they expected to succeed in nominating him, which they did. But they foresaw they might be saddled with an obnoxious platform. They wished to neutralize the effects of this by a personal declaration from General Scott, and they obtained his promise to write a satisfactory letter of acceptance. The question as to what the letter should be was a difficult and anxious one. Several were written by different individuals; among them one by Mr. Seward and one by Mr. Greeley, and another, which, after long deliberation, was decided upon. But General Scott, after consenting to sign it, upset the whole arrangement by telegraphing his acceptance of the nomination 'with the resolutions annexed.' This maladroit performance prevented the issue of the letter, and precluded all the anticipated advantages from it. None of the letters have ever seen the light."

The following citations from Greeley's draft may serve to characterize the position and objects of the Seward Whigs: "For its (the constitution's) authoritative interpretation I look alone to the federal judiciary, holding myself bound to obey it as that judiciary shall expound it, and to obey all laws which that court shall pronounce accordant with its spirit and authorized by its provisions. . . . I took them (the compromise laws) as they were presented—as I only



party to one another, untrue the relation of the two groups of the conservative fraction, untrue the attitude of the candidates towards the people, all the fractions of the party and themselves.

The men who played the leading parts in this intriguing with principles and this impotent effort to get around the facts, should not be as severely reproved for it as it would seem they should from the general principles above laid down. A great part of them and perhaps a majority had even now acted according to their best knowledge and conscience,

could take them—and deeming it better for the country that they should pass than that they should fail, I gave them an earnest and conscientious support. By that support I hold myself committed, in honor and uprightness, to adhere; these measures I hold myself bound, in their essence and substance, to maintain. If there be any modification of detail, not inconsistent with their general purpose, whereby they may be rendered more acceptable or less obnoxious to any number of dissidents, I shall be at all times most happy to concur in it; but from any co-operation or consent to overthrow or essentially change it, I hold myself precluded by the dictates of integrity and the obligations of good faith. . . . But I must be allowed to add, in order not to be misapprehended on any side, that my judgment has condemned and my feelings have revolted at the attempts I have witnessed to make of these compromise measures a party shibboleth, and to extort from dissidents a reluctant assent to their wisdom and justice, under penalty of exclusion from public life. To my mind these attempts, however intended, whether aimed at dissatisfaction in the north or in the south, are eminently calculated to foster and inflame the discontent which they seem intended to quell, and to render once more threatening those wounds and inflammations which time alone can thoroughly heal. . . . Impelled by these convictions, I decline to give any pledge, such as has been required of me, to exercise the veto power lodged with the president to defeat any possible modification of either of the compromise measures. That power is one which should be very sparingly and cautiously used: I could not accept it under a mortgage; if there be a majority of my countrymen who desire to see it shaken in the face of a minority to exasperate and madden them with the taunt of impotence and helplessness, they must commit it to other hands than mine.” *First Blows of the Civil War*, pp. 139-142.



and in the subsequent incomparably harder battles, many of them proved themselves, in head and heart, men fit to stand fearlessly by the side of the best of other nations. It was the frightful untruthfulness of the situation, produced by the linking together of the opposed principles of freedom and slavery, that found its natural expression in this repulsive action. But even if the individual guilt of the principal persons had been much less than it was, nothing whatever would have been changed in the fact, that, under the circumstances, the victory of the Whigs would have been in the highest degree improbable and a great misfortune, since this web of tangible untruths was the only thing they offered the people as their recommendation.

The best excuse the Whig politicians had was, undoubtedly, the self-deceptions into which they had fallen to a greater or less extent, in respect to all the things referred to. But they were not so blinded, that the results of the Baltimore convention would have filled them with the confidence of victory. The *Democratic Review* had praised the Democratic convention because it had, with wonderful skill, made itself acceptable to all; the Whig convention left everybody dissatisfied and vexed. All hope was of course not given up, for the compromise had been effected in order to be able to hope; and for tactical reasons, so confident an appearance was maintained, that, at least some of the sanguine ones were able, for a time, to talk and write themselves into self-deception in this regard. But from week to week, the proofs increased that the compromise had no binding power, but that it acted rather as a sharp corrodent. How far this was the case among the masses could not be ascertained with certainty at the time, but well-grounded conclusions in respect to it might have been drawn from the reception which it found

among a large part of the politicians. These were not all satisfied, like Greeley and Stevens, with condemning it with sharp words. Some stood sulkily apart and refused to move their tongues or touch their pens for the party; others publicly severed their connection with it, declaring that they did not want to have any share in that self-deception or in the deception of the people. With the former personal considerations preponderated, while the latter were determined by considerations which had more to do with things than with persons.

The first class consisted of a part of the Webster fraction. Their acrimony could not be a matter of surprise, for not only had their hopes been disappointed, but the south had treated their hero in a shameful manner, as if it was bent upon paying its debt of gratitude to him with mortifications and scornful contempt. Fifty-two ballots had preceded Scott's nomination, and the vote for Webster had not exceeded thirty-two. What was worse was that he did not even once receive a single vote from a slave state. It was known, that Scott's nomination would be made on the fifty-third ballot. Webster's friends earnestly begged the southern conservatives to vote for the gray-haired statesman, who had been for decades the pride of the whole country and to whom they were under so many obligations, and at least not to make him an object to scoff at, now that they had practically given up Fillmore's nomination, in order that he might be defeated with honor. What humiliation there was for Webster in this prayer! And the humiliation was doubled and trebled by the fact that it was in vain. Simultaneously with Scott's nomination, the news that the "defender of the constitution," who had become the orator of the 7th of March, was not paid even the empty compliment of a single vote by the slavocracy, spite of the prayers of his partisans, sped through the



whole country. Even those of his former friends whom his course in the compromise struggle had wounded most deeply, could not help feeling indignation and sympathy because he received such treatment, much as they might have believed that he was only reaping what he had sown. But this feeling was mixed with justifiable satisfaction and joy. The mortification Webster now suffered was the last service which he rendered to his country, and it was as great as it was involuntary. If Webster was rewarded in this way for such services, by the slavocracy, what had ordinary "dough-faces" to expect from it, in a critical moment? If the race of northern politicians had not sold all the dignity of their manhood for the mess of pottage of federal office, Horace Mann's hope might yet be realized, that this example would not be completely lost upon them.<sup>1</sup>

<sup>1</sup> Even on the majority of the house of representatives, Mann's denunciation, breaking forth with irrepressible force from the very depths of his heart, could not but make an impression: "Surely, if General Jackson, in 1836, in order to obtain a third election, had courted and defended the United States bank, written and spoken through all the eastern cities in its behalf, and made James Watson Webb and Nicholas Biddle his bosom confidants and counsellors; surely, if Mr. Clay, in 1848, had declared for free trade, against all tariffs, against river and harbor improvements, and against all the policy that had most signalized his life; surely, if Mr. Calhoun, during the controversy respecting the new territories, had suddenly avowed himself the disciple of Clarkson and Wilberforce, and had raised the standard of 'immediate emancipation';—surely, I say, neither of these events would have furnished such ample material of contradiction and amazement as are supplied by the melancholy case I am now considering. After having nurtured, tutored, and led northern anti-slavery sentiment for thirty years; after having claimed the 'patented thunder' of the Wilmot proviso; and after having discovered the North star, in a single day, without premonition or cause of change, Mr. Webster espouses doctrines more southern than South Carolina, and becomes Calhouner than Mr. Calhoun.

"Where shall the searcher of history find a parallel for this? I know of none. I can conceive but one—that of Moses, from the con-



Webster himself endeavored to maintain a dignified demeanor. But the blow was too unexpected and too heavy. The reminiscences of his admirer, Harvey, have rendered him a poor service, but to historical truth a

finer of Jordan, and the top of Pisgah, commanding the children of Israel to march back into the land of Egypt, for re-subjugation to Pharaoh; yet striving to persuade them that the 'geography' and 'scenery' of the Nile would render slavery there impossible.

"And yet, when the trial-hour of the Baltimore convention came, what did he gain by it all? A single southern state? Not one. A single delegate from a southern state? Not one. With all the efforts that official power, and the wealth of cities, and amazing industry could make; with all that subscription nominations, and Faneuil hall meetings, and Castle Garden committees, and Wall street and State street, and subsidized presses, and fraudulent hopes of tariff and southern trade could effect, Mr. Webster could rally but an average of twenty-nine votes in a convention of almost three hundred members, and never, on any balloting, according to the political thermometer which measured his popularity, did he rise above thirty-two degrees—the point of eternal congelation! No southern state gave him a vote! No southern delegate was sent there to give him a vote! Fifty-three opportunities occurred, extending from day to day, and, according to an account published in the *Boston Courier*, from a professed eye-witness of the scene, the northern friends of Mr. Webster besought their southern brethren with prayers and entreaties, sad and tearful enough to have melted flint, to have melted platinum, to have melted anything but the infusible heart of slavery, and yet they were inexorable. Nay, according to the published statement of his friend, Dr. Bell, a delegate from the Fourth Congressional district of Massachusetts, after the fifty-second ballot, and when it became certain that General Scott would be nominated the next time, these southern gentlemen 'were earnestly appealed to, as a matter of courtesy, and to place our candidate (Mr. Webster) right (wrong?) on the page of history, to unite in the final vote on Mr. Webster, which would have left him with some one hundred and twenty or thirty votes'—they refused to give him even that empty compliment.

"So certain has been the fate of Mr. Webster for the last eighteen months, that I and all those with whom I am politically associated, have foreseen it and predicted it with as much confidence as an astronomer foretells an eclipse. Let us trust that the fate of such victims will not be lost for the future upon northern men." *Congr. Globe*, 1st Sess., 32d Congr., App., p. 1079.

service for which we may be thankful. The almost idolatrous reverence in which he held his hero, made him so ingenuously blind that he exposes, with sad latitude, the petty and impure sides of his character while he thinks he is only weaving a crown of light about Webster's head. These sketches give us an impressive picture and one true to life of the feeling which now governed the individual so richly endowed by nature and, to his misfortune, so spoiled by men. Webster's mighty mind was crushed, and with it his physical energy was affected in its very roots. He had faced the displeasure of his former associates and friends unmoved, but the malignant joy and the sympathy of people over whom he towered more than head and shoulders, were too much for him. The voice of down-trodden self-love found an entrance, such as it had never found before into his head and heart. In secret, he too, turned away from the Whigs and advised Harvey to vote for Pierce.<sup>1</sup> It was a kind fate, that he was soon called away by death. Before the great electoral battle was decided, on the 23rd of October, 1852, he died, after a short illness, in his beloved Marshfield. One of the greatest and most brilliant stars in the political firmament of the United States, overshadowed in its decline by a dark cloud, had set forever.

A few months before, on the 29th of June, Henry Clay had died in Washington. Many a word of recognition was carried to his sick bed from both houses of congress for the glorious share which he had had in the compromise of 1850 and the previous great compromises, and he survived the day on which the national convention pledged his party to the finality of the settlement, which, as he expressed himself, had closed the seven bleeding wounds of his country. One of the last words of Calhoun

<sup>1</sup> Compare Harvey, *Reminiscences and Anecdotes of Daniel Webster*, pp. 194-203.



was a prayer that God might take care of the "poor south." Webster had laid his head, humbled and embittered, in the grave, because he had taken too much care of the poor south; could Clay depart this life with the words on his lips: "Lord, now dost thou dismiss thy servant in peace"? An entirely superficial observer might allow himself to be deceived by appearances, but it required no deep penetration to recognize that this last of the three great stars, which for about forty years had been more or less the centres of the political constellations, had a setting without splendor. Apparently he celebrated the greatest of his triumphs at the moment that he closed his life forever, for his escort to the road from which no traveller returns handed him the solemn political anathema of the representation of both national parties against every one who did not bind himself unconditionally and irrevocably to the compromise. But this anathema was the death sentence of the compromise policy, for there were people who dared to defy it, as well as people for whom it was not sufficient because it was not decreed honestly and in bitter earnest. There was no immediate danger to be dreaded from the former, but their hour would soon come, because the latter were the most genuine finality politicians. They were heroes of the party of Henry Clay, grown gray in the strife, and they did not recoil, for the sake of their finality convictions, from tearing to pieces the party which had sacrificed everything in order officially to make a confession of faith of the finality of the compromise.

Several southern Whig papers immediately announced their defection from the party. That this happened in South Carolina cannot be a matter of surprise, nor was it of any importance, so far as the issue of the campaign was concerned, since there could not be a victory of the Whigs, in the state, under any circumstances. That



Georgia, the Union state, *par excellence*, took the lead in this secession, although the yielding of the north in the question of the committee on resolutions and thereby in great part the triumph of the finality policy had been effected by the threats of its delegates, was of the highest importance, not only because the Whigs lost this weighty state, but because it proved that the two fractions had closed their great trade in vain. The Seward Whigs now claimed that Georgia had not from the first intended to submit to the result of the convention.<sup>1</sup> As thus formulated the reproach was evidently too broad. If Fillmore had been nominated with that platform, Georgia would presumably have had an opportunity to make a like complaint of certain politicians of the New England states and of New York. What the Georgia conservatives were resolved upon, from the first, was simply not to support the candidate of the anti-finality politicians on a finality platform, because a "neutralized" finality platform was of no service to them. This they expressed with full frankness,<sup>2</sup> and nothing could be answered to it. Seward's

<sup>1</sup> "In South Carolina and Georgia there is a hitch somehow, and it now seems that Gen. Scott will have to be elected without the help of those states." South Carolina was not of importance, "but the coalition of Cobb, Toombs and Stephens in the Union-saving business evidently contemplated a different disposition of the electoral vote of the state, and their arrangement will probably be carried out . . . there was at no time any intention on the part of her (Georgia's) 'Union' Whigs of abiding by the result of the ballotings." N. Y. *Tribune*, June 28, 1852.

<sup>2</sup> The Savannah *Republican* of the 23rd of June, writes: "Gen. Scott has played the part of a silent candidate—and we have had enough of silent candidates. Nay, more—he has been kept before the people for months, with a padlock upon his lips, and his principles in Mr. Seward's breeches' pocket. As such, it is needless to say that neither we nor the Whigs of Georgia can support him.

"It will not answer for the Free-Soil advocates of Gen. Scott to point to the platform of the convention. . . . It was built by southern

declaration, in a letter of the 26th of June, 1852, to James B. Taylor,<sup>1</sup> that he would neither accept a seat in Scott's cabinet nor any other office, in case any such offer was made him, was no answer. People in the United States had heard enough of "Kitchen Cabinets" not to need to have their attention now called to the fact that a person did not need to occupy an official position, in order to exercise a controlling influence on the president. But above all things, it was not at Seward personally that the Georgia Whigs and all the southern conservatives took offence, in the first place. What determined them was that Scott was the candidate of the liberal tendency within the party, whose chief representative, at the time, Seward was considered; and, as the *Macon Messenger* of the 22d of June rightly remarked, the majority of the Scott delegates in the convention had voted against the platform.

These declarations were followed by a solemn manifesto of several southern Whigs, part of whom were among the most influential leaders of the party. On the 3rd of July, a document appeared signed by Alexander H. Stephens,

hands. But what care they or he for that or any other platform?" Fillmore and Webster were rejected by the convention because this was really their platform. "To place Gen. Scott upon this platform, therefore, and present him to southern Whigs, is a trick of his Free-Soil supporters, too shallow to be successful.

"To make Gen. Scott president, would be to place the reins of government into the hands of Mr. Seward, and to keep up his all-powerful Free-Soil organization in the northern states. It would be furnishing him a club with which to beat out our brains four or eight years hence, when he should be brought forward himself as a candidate for the presidency. Southern Whigs can never thus stultify themselves."

The *Augusta Chronicle* of the same date expresses itself in a precisely similar manner.

<sup>1</sup> The letter is printed in the *New York Tribune* of the 29th of June, 1852.



R. Toombs and J. Johnson of Georgia, Chas. J. Faulkner of Virginia, W. Brooks of Mississippi, Al. White and J. Abercrombie of Alabama, in which the gentlemen named announced that Scott could not receive their support, because he was the preferred candidate of the Free-Soil wing of the party and had not expressed himself definitely enough in favor of finality.<sup>1</sup> M. P. Gentry and Chas. Williams of Tennessee, likewise declared, without entering in detail into their reasons therefor, that they could not vote for Scott.

When this address and the declarations agreeing with it of southern papers were compared with the commentaries of the Greeleys, Stevens, etc., on the platform, no great political ability was needed to recognize that the matter could not be dismissed by saying with an affected certainty of victory: we must, then, elect Scott without Georgia. Even if Scott were elected, it was at least very probable, that this defection of a portion of the southern Whigs from the party would have far-reaching consequences. The Stephens, Toombs and their associates were not men from whom it could be expected that they would sit on the pouting stool with folded hands so long as the party was not satisfied with their views. Sooner or later they would have to come to positive conclusions which after the present electoral campaign was over, would greatly influence the formation of parties. That they would not simply be transformed into orthodox Democrats, even if they could so far obtain the victory over themselves as to now vote for Pierce, was undoubted, for they had not departed an iota from the economic and general constitutional principles of the Whigs. But if they did not wish either to surrender playing a determining part in politics, jointly

<sup>1</sup> The address is printed in Cluskey's Political Text Book, pp. 605, 606.



with the rest, nor to become out-and-out deserters, what other way remained open to them?

Even in the convention, the idea had been broached that under certain circumstances, they should form themselves into an independent Union party, under the leadership of Webster, and this same idea was still suggested here and there. The *Savannah Morning News* of the 23rd of June, gave the assurance that if a third presidential candidate were put up, the Whigs of the state would gladly support him, for they preferred defeat under Fillmore or Webster to victory under Scott.<sup>1</sup> But such a course, which, even if there had been a complete breach between the two fractions in Baltimore, would have had no prospect of success, must, after an agreement had been come to there, have had so small a result, that there would have been danger of their making themselves ridiculous by taking it. This proposition, therefore, met with no approval, since the leaders of the secessionists were very far from being Quixotic idealists. Dramatic effects of any kind in consequence of their leaving the party, were not to be expected in this campaign, but its effect on party formation and the whole future of the country might be all the more far-reaching. The *Charleston Mercury* was presumably right when it said that there would soon be a great exchange between the two existing parties, which would finally end in the transformation of one party and the formation of a new party. The natural consequence of the secession of the stricter slavocratic element from

<sup>1</sup> "In the present state of feeling we are confident that the nomination of a third presidential ticket, by the Union Whig delegates at Baltimore, would be promptly responded to by the Whigs of this state, most of whom, with the true Union Whigs of the north, would prefer defeat with Fillmore or Webster, as national men, to victory with Scott as a sectional chief."

the Whig party and its union with the Democrats, among whom, as a result, the representatives of the slave-holding interests would become the controlling factor to a greater extent than before, was the separation of the Free-Soil fraction from the Democrats and their union with the liberal Whigs; but this coalition was necessarily a new party, since it left even the more moderate slavocratic elements no place among the Whigs and the existence of the latter had therefore come to an end. Hence the formation of parties on the basis of slavery had become a fact; the initiative in the last preparatory step as in all previous ones had been taken by the slavocracy, as they also pointed to the fact that this long wished for end had been reached.<sup>1</sup>

The development of things prophecied by the *Charleston Standard* was all the more certain to take place, as, in consequence of the over-reaching of the slavocracy, the incentives thereto had long been present. It was strange to hear the gentlemen of the south speak of the third party, simply as a possibility in the future, whereas the third party had been in existence for a series of years. Did they affect to ignore its existence completely because the election of its candidate was out of the question? Was it already forgotten that, spite of this, it had had the decision of the election in its hands? On the 12th of August, it held its convention in Pittsburg, nominated Hale and Julian and put up a platform in which it em-

<sup>1</sup> The place referred to in the *Charleston Standard* reads: "In every southern state, the true hearted Whigs will now rally by hundreds to the standard of Pierce and King, as the only hope of the constitution." And the result must be, what we have long wished, that the Free Soil Democrats will be driven off to form a third party, as to men the friends of Gen. Scott, while the true southern men will be landed together."

phatically professed its old principles.<sup>1</sup> And still it was no longer the old party. Facts now proved that it had, four years before, by the nomination of Van Buren, the northern man with southern principles, deprived itself of the capability of development. The number of those had grown who would listen to no further complaisance towards the slavocracy, but the vote for the candidates of the Free-Soil party which steadily and rapidly increased until 1848, now fell to nearly one-half. And it was specially significant that this reduction took place chiefly in New York, which had played the leading part in the Free-Soil movement, in favor of the Democratic party. To represent as Chase did, that Scott would have been elected if the adherents of the Buffalo platform in New York had remained true to their principles is not warranted; but it would, however, have been possible that, in this case, the Free-Soil party would have once more, indirectly, turned the scales in favor of the Whigs. But Chase's further assertion that, in consequence of this, almost the entire Democratic party would have been converted to the principles of the "Independent Democrats," and that this would have led to the gradual abolition of slavery through the initiative of the individual states, is pure fancy.<sup>2</sup> The course

<sup>1</sup>In the 6th resolution, we read: "To the persevering and importunate demands of the slave power for more slave states, our distinct and final answer is, No more slave states." And the 8th resolution reads: "Resolved, That no permanent settlement of the slavery question can be looked for, except in the practical recognition of the truth, that slavery is sectional and freedom national; by the total separation of the general government from slavery, and the exercise of its legitimate and constitutional influence upon the side of freedom, and by leaving to the states the whole subject of slavery, and the extradition of fugitives from service."

<sup>2</sup>Chase writes: "After these nominations (of Pierce and Scott,) and declarations I did not hesitate what course to take. I addressed, at once, a letter to Mr. Butler, of New York, declaring my own



of events would not, in all probability, have undergone any essential change in consequence of this, it would only have been somewhat retarded. It is idle, however, to write hypothetical history with ifs and buts. The Free-

determination to adhere to the principles announced at Buffalo, and to act with the only party faithful to them; that is to say with the Independent Democracy which had maintained its organization and had called a convention to meet at Pittsburg. I earnestly urged him, and the Democrats who had acted with him at Buffalo, to maintain the ground they had taken.

"I shall ever lament that this appeal was not heeded. The party of freedom had given, while unorganized, in 1840, one vote in every 350 of all the votes cast in the United States, for its candidates. In 1844 it had given one vote in ten, and almost one in nine. This, it must be remembered, was the proportion, in the free states, of the whole vote of the United States. The proportion in the free states considered by themselves must, of course, have been much larger. It can not be doubted, I think, that had the New York Democracy adhered to the principles avowed in 1848, and refused to support the Baltimore nominations upon a platform repugnant to the sentiments and convictions of a large majority of the northern people, a vote would have been given for the nominees of the Independent Democracy, which, if not sufficient to elect its candidates, would have insured the election of General Scott, and, consequently, the union of nearly the whole Democratic party in the course of the following year upon the principles of the Independent Democracy. The Democracy of the Union, united upon these principles, would have been invincible, and slavery, excluded from the national territories, would have been ameliorated, diminished, and, finally, abolished in the states by state action. The Rebellion, in all probability, would have been avoided, and the Union would have been preserved unbroken, and preserved, not for slavery, but for freedom."

"The New York Democrats, however, saw the matter otherwise than I. They went over almost unanimously to the support of Mr. Pierce who was of course elected. Their defection, and that of those influenced by their example, in other states, reduced the vote of the Independent Democracy from 261,678, in 1848, to 157,296, in 1852. The whole anti-slavery vote was 177,268 and the Independent Democratic vote was 157,296. Near three fourths of the whole anti-slavery vote was in New York. Warden, Private Life and Public Services of S. P. Chase, p. 367.

Soil party actually exercised no influence on the issue of the electoral campaign, and to that extent the gentlemen of the south were right when they believed that they might simply drop it out of sight entirely. But they greatly erred when they thought they could look upon that as a sign of the strengthening of their supremacy, just as Chase erred greatly when, in the interest of the anti-slavery movement, he lamented Scott's defeat. The fact that the lack of vitality of the Free-Soil party became so apparent in the electoral campaign of 1852, cleared the ground for the building of a new party which took up the struggle against slavery with greater moral earnestness and did not, like it, come into existence burthened with the dead inventory of all kinds of party reminiscences, but which inherited, for a firm foundation, the remnant of the Free-Soil party which had remained true to its principles as a valuable legacy of the years of apprenticeship in the struggle against the slavocracy.

Even at the present day, people have not everywhere, by any means, penetrated the full meaning of Seward's celebrated expression, "the irrepressible conflict." Both among Americans themselves and among Europeans who have lived through the critical period of the United States, there are very intelligent people to be found, who hold with more or less tenacity, that the collision of the two sections might have been avoided, were it not partly on account of the want of intelligence, and partly on account of the bad will of the politicians who were so strongly bent on bringing on the catastrophe. A more intimate acquaintance with this "finality period" which, because there is so little in it that is refreshing, has not attracted very much attention, should teach them differently. With the dissolution of the Whig party and the inevitable necessity of the formation of the Republican party which

followed it, the disruption of the Union became unavoidable, and this new shaping of party relations was not the work of the politicians, but took place against their wishes and expectations, and spite of their almost despairing efforts; those who followed this development of affairs with satisfaction and tried to promote it, were an evanescently small minority, which could have exercised no influence worth mentioning, were it not that facts, with the irresistible weight of their logic, were on their side.

Immediately after the close of the compromise, Governor Troup expressed his conviction that secession without the shedding of blood was a foolish illusion, and he, therefore, declared further that it was folly to expect the secession of the slave states now, since they were neither prepared to secede nor had the will to secede.<sup>2</sup> The value of this testimony was great, because the two last mentioned truths were very bitter ones to the witness and filled him with indignation. The course of the secessionist movement in South Carolina and Mississippi had demonstrated the correctness of this opinion. In the north as well as in the south, and precisely in those circles which were most dissatisfied with the compromise, the view had become established that a long period of calm had set in. The southern radicals began to interpret their

<sup>2</sup> He writes Oct. 29, 1850: "If any one believes there can be dissolution without the most bloody contests, he deceives himself; and he who is best armed is likely to be most successful. For dissolution, two things are necessary. First, The will. Second, The means. Carolina is the only state having the will, and the only one having any degree of preparedness to carry that will into effect. In every other state there is neither the one nor the other. Some of the states are, almost to a man, satisfied with what Congress has done—all the rest are divided. Their representatives and senators have divided; with respect to Georgia, none can tell on which side a majority is, either for submission or resistance." *Harden, The Life of G. M. Troup*, Appendix, p. XX.



secessionist desires, and the northern liberals thought that there was a visible reconsolidation of the old parties on the old issues. It surprised them that this was taking place in the central slave states less than in any other; but they consoled themselves with the reflection that the south would have to follow that tendency of the north, and that, therefore, the secessionist fraction, like the abolitionists were henceforth to be looked upon as a political excrescence.<sup>1</sup>

The erroneousness of their calculation and the uselessness of their efforts were, however, exhibited by the fact that the action or inaction of neither the most exposed nor the most radical slave states was decisive of the course of

<sup>1</sup> The *N. Y. Tribune* of July 16, writes: "In the north we behold everywhere a strong tendency of parties to fall back upon the former issues. . . . No doubt there will remain an anti-slavery party proper. . . . But that the Whigs and the opposition at the north are gradually regaining their former compactness and internal unity, seems sufficiently evident from the facts in the case. . . . There being no longer an immediate danger of the extension of slavery, the feeling against it cannot but subside, while the more permanent and regular questions of public policy rise into their fitting prominence. . . . But if we look to the south, we do not find this open tendency of parties to the ancient unity and consistency. . . . Instead of the old standards, we find them going into the elections under the flags of Union and Disunion. It is noticeable too, that the central slave states are those in which the contest assumes this aspect. . . . Neither Virginia, nor Florida, nor Kentucky, nor Louisiana, nor Texas think of debating or deciding any such question at the polls. . . . Beaten now, the disunion party will not make head again. . . . After this crisis the process now operating at the north will gradually take place at the south also, unless some new disturbing cause in the way of foreign conquest, or Cuban or Mexican expeditions should intervene. Parties will resume their previous organization, and will act once more upon the great national questions which divide them. There will no doubt still remain at the south a small disunion party, analogous rather to our Garrison abolitionists than to our former Liberty men, but they will not be strong enough, either in number or influence, to be of any particular account."

events, but it was the conservative element of the most secure slave states, which by its finality policy kept the slavery question alive. Not the lack of intelligence nor the depravity and bad will of the politicians, but their impotence in the face of the facts was the characteristic mark of the period. The radical elements on both sides had, for a time, descended, in that which was essential, to the role of spectators who could find vent for their impulse towards action, only in the applause with which they greeted the fact, that all the endeavors of the dominant middle fractions of both parties resulted in the opposite of what they aimed at. They had foreseen and foretold this,<sup>1</sup> and as they had also wished it, it happened in their case, as it has frequently happened, at all times, in the case of prophets: their prophecies were looked upon as the causes of the events. This was all the more unjust as the unavailability of this development, that is the reorganization of parties on the basis of the slavery question was so clear that even those who most stoutly contested it at the time, pointedly called attention to it occasionally. The liberal Whigs who clung so stubbornly, for their own party, to the illusion that they could maintain the principle "to agree to disagree," had long since perceived that the Democrats would be obliged to make concessions to the slaveocracy, if they wished to claim the character of a national party,<sup>2</sup> and this had not only been recognized as correct

To the proofs of this already mentioned may add another from the abolitionists side. The *Proslavery Standard* of November, 1850, in its review of the new political situation, said of the two great parties: 1. *Conservative* and 2. *Radical*. The *Proslavery Standard* further defined the terms as follows: "The conservative party is that which is opposed to the extension of slavery into the territories. The radical party is that which is in favor of the extension of slavery into the territories." Weiss, *Life and*

the *Proslavery Standard* was a conservative paper, and its editor, John C. Weiss, was a conservative. The *Proslavery Standard* was a conservative paper, and its editor, John C. Weiss, was a conservative.

by the Democratic candidate for president,<sup>1</sup> but he would never have been nominated, if he had not done it.<sup>2</sup>

What the politicians really effected, by opposing the further natural development of the slavery question, was simply that it took longer than it otherwise would have taken, for the people to obtain a clear understanding of the situation. If the politicians had had greater ambition to elevate themselves to the rank of statesmen, if they had subordinated partisanship and personal interest to patriot-

of the New York *Herald* of the 7th of February, 1851, writes: "The Democrats are sure they have a party, scattered about somewhere; and the important question with them is, how it is to be reunited, who can do it; and what movement is first necessary to put the ball in motion. Some concessions of principle must be made to secure the Southern Rights wing of the Democracy, if possible; but that is a delicate operation. . . . But this is certain, unless the southern ultras are conciliated, the nationality of the Democratic party is gone; and they can do nothing, and can effect nothing, with a national candidate before the people.

"Therefore it is, that we are disposed to credit the hints whispered in our private ear, that the Democratic party in 1852 will be organized not only upon a Union platform, but upon strong southern grounds; and that the first step will be to reconcile, by liberal concessions, the ultras of the south, and to bring them back in this way, as backsliders are recovered to the church, by the exercise of charity and the holy oil of consolation."

<sup>1</sup> Pierce writes in a letter dated May 27th, 1852: "Will the north come cheerfully up to the mark of constitutional right? If not, a breach in our party is inevitable." Cluskey, *The Political Text Book*, p. 440.

<sup>2</sup> H. S. Foote writes: "Mr. Pierce undoubtedly owed his nomination for the presidency in 1852, mainly to the fact, very dexterously paraded at the time before the convention of the Democratic party in Baltimore, that he had a few weeks before written and published a strong finality letter; but for which circumstance he would certainly never have had an opportunity presented to him of cruelly disappointing the hopes of a generous and confiding people, and of rekindling as far as it lay in his power the smouldering fires of sectional strife into a perilous and all-destroying conflagration." *Casket of Reminiscences*, p. 88.



ism, their political intelligence and capacity would have sufficed to convince them, that it was worse than idle to try to prevent all further manifestation of the opposition between freedom and slavery in federal politics by a resolution, while the immense advance of the people in culture and in all spheres of life caused the actual development of that opposition to advance with giant steps. Their unscrupulous selfishness, their bold frivolity, their ardent race for the spoils, their habit of bargaining in great things and in small, their intellectual and moral stagnation of party spirit destitute of thought and principle alike, their faith in the omnipotence of their petty professional tricks and artifices, invested in impenetrable mist what, in itself, was so terribly clear. The higher the intellectual and moral demands made on the leaders in politics became, the less able and willing were they to meet them. The reaction for the better had, indeed, already set in, because the awakening of the people had begun, but naturally it went no further than this. Where there were as yet no incentives to this action, the politicians declined all the more rapidly in character, as always happens in the transition period to great crises in the life of nations. Incipient awakening on the one hand, and a corresponding inaction and stagnation on the other, both growing incomparably more apparent in the official managers of politics than in the rest of the people, until the coming of the catastrophe in which the great and noble as well as the petty and weak sides of the people's character asserted themselves: such was the situation.

If the people became more and more the victims of the delusion, that the dangers growing out of the slavery question had been materially allayed, and that the worst would never again have to be feared, the reason was, in great part, because the politicians were not looked upon as men

who would or could enter the lists for anything with the full, manly earnestness of unshaken conviction, or with the wild passion of unassumed fanaticism. It, therefore, produced an overpowering impression on friend and foe alike when Sumner, on the 26th of August, delivered a speech in the senate with the contained fervency of holy, enthusiastic conviction, for the repeal of the Fugitive Slave Law. That speech was as loud a call to battle as that which Garrison had uttered twenty years before. It was a call which could neither be silenced nor cried down, but had to be dealt with very differently, because it came from a man who, no less than Garrison, was permeated by the all-overcoming force of moral ideas, but who at the same time considered it right and necessary in politics, to fight with political weapons. The speech was a terrible blow at the shallowness of the finality argument. The indignation and terror it excited on the one hand, and the joy it awakened on the other, did not die away in a few days, for it was the first card in a well-considered game which the player was resolved to play to the end whatever consequences it might have for him personally. Sumner stated that he had waited for months that he might not as a novice in the senate be represented as a pert and inconsiderate hot-head, but that he now claimed his right and would do his duty without any regard to the wishes or opinions of others.<sup>1</sup> If the truth and significance of this

<sup>1</sup> "And now, at last, among these final crowded days of our duties here, but at this earliest opportunity, I am to be heard: not as a favor, but as a right. The graceful usages of this body may be abandoned, but the established privileges of debate cannot be abridged. Parliamentary courtesy may be forgotten, but parliamentary law must prevail. The subject is broadly before the senate. By the blessing of God, it shall be discussed. . . . With me, sir, there is no alternative. . . . Full well I know, sir, the difficulties of this discussion, arising from prejudices of opinion and from adverse conclusions,

declaration were not so apparent from the tone and matter of the speech, the slavocracy would not have grown so angry under the weight of his blows,<sup>1</sup> and Hale and Chase would not have said in solemn earnestness that that speech marked an epoch in American history.<sup>2</sup> What gave the speech this importance was not any special thought to which it gave utterance, nor any new constitutional argu-

strong and sincere as my own. Full well I know that I am in a small minority, with few here to whom I may look for sympathy or support. Full well I know that I must utter things unwelcome to many in this body, which I cannot do without pain. Full well I know that the institution of slavery in our country, which I now proceed to consider, is as sensitive as it is powerful—possessing a power to shake the whole land with a sensitiveness that shrinks and trembles at the touch. But while these things may properly prompt me to caution and reserve, they cannot change my duty, or my determination to perform it. For this I willingly forget myself, and all personal consequences. The favor and good will of my fellow citizens, of my brethren of the senate, sir—grateful to me as it justly is—I am ready, if required, to sacrifice. All that I am or may be, I freely offer to this cause." *Congr. Globe*, 32d Congr., 1st Sess., App., p. 1102.

<sup>1</sup> Scarcely had Sumner closed when Clemens sprung up and said: "I rise to express the hope that none of my friends would make any reply to the speech which the senator from Massachusetts has seen fit to inflict on the senate. I shall not do so myself; but others may differ with me in opinion as to the propriety of this course. I shall only say, sir, that the ravings of a maniac may sometimes be dangerous, but the barking of a puppy never did any harm." *Ib.*, p. 1113.

Badger did not accede to Clemens's wish, but answered in a long speech which began with the declaration: "I think I may say, without hazard or fear of contradiction, that the senate of the United States never heard a more extraordinary speech than that which has just been delivered by the senator from Massachusetts." *I. c.*

<sup>2</sup> Hale said: "I believe that he has formed to-day a new era in the history of the politics and of the eloquence of the country; and that in future generations the young men of this nation will be stimulated to effort by the record of what an American senator has this day done, to which all the appeals drawn from ancient history would be entirely inadequate. Yes, sir, he has to-day made a draft upon the gratitude of the friends of humanity and of liberty that will not be paid through many generations, and the memory of which shall endure as long as



ment, but as it was briefly and happily expressed, the fact that the feeling ran both through the north and the south that a man "with a conscience" had arisen in the legislative body of the Union.

Of course, no one interpreted this expression to mean that bold consciencelessness was the most prominent characteristic of all the other members of congress. But even the best of them, like Chase, Giddings, Hale, Seward and Wade had not been able to free themselves completely from deep-rooted party tendencies and considerations of expediency which could not be tolerated by a conscience to which bargaining in an ethical question was, under all circumstances, an abomination.<sup>1</sup> And the majority had not only been cradled in the belief that continual bargaining in this question was an unconditional demand of political wisdom and patriotism, but they came, more and more, under the influence of a spirit which made the Capitol at

the English language is spoken, or the history of this republic forms a part of the annals of the world." *Ib.*, pp. 1119, 1120.

Chase, estimating the significance of the speech still higher, said: "Let me add, Mr. President, that in my judgment the speech of my friend from Massachusetts will mark an era in American history. It will distinguish the day when the advocates of that governmental policy, constitutional construction, which he has so ably defended, and so brilliantly illustrated, no longer content to stand on the defensive in the contest with slavery, boldly attacked the very citadel of its power in that doctrine of finality, which two of the political parties of the country, through their national organizations, are endeavoring to establish as the impregnable defense of its usurpations." *Ib.*, p. 1121.

<sup>1</sup> Seward and Chase could not say of themselves what Sumner did to describe his position: "Sir, I have never been a politician. The slave of principles, I call no party master. . . . Party does not constrain me; nor is my independence lessened by any relations to the office which gives me a title to be heard on this floor. And here, sir, I may speak proudly. By no effort, by no desire of my own, I find myself a senator of the United States. Never before have I held public office of any kind. With the ample opportunities of private life I was content." *Ib.*, p. 1102.

Washington a fit object of comparison with the temple at Jerusalem, when Christ purified it from the money-changers and traders. Official Washington was already so thoroughly overrun with ordinary political knights of industry that coarseness and corruption endeavored to force themselves forward everywhere with boastful assurance, and one might easily have fallen into the error that these elements were already, to a great extent, undisputed masters of the field. The condition of things must certainly have been bad, when one of the most respectable organs of the party at the helm could give a description of the political circles of the capital which even those strata of European society in which anything to the detriment of the republic is only too willingly believed, were compelled to look upon as a malicious exaggeration.<sup>1</sup> The time had already come for

<sup>1</sup> The *American Review*, April, 1851, pp. 289, 290, writes: "We have yielded our opinions too easily to the arguments of faction, and the dishonest insinuations of interest: we allow men to lead and represent us, and to exercise public authority, whom in private we would scorn to trust or meet with respect. We put notoriety in office and not reputation; for the real man we substitute imaginary creatures, mere men of straw, incapable either to guide or govern. In the great ship of state we lodge a feeble or worn-out engine, which makes a merit of a backward motion, lest the great seas may break its rotten gear or crush in pieces its rusty shafts. We set up imaginary presidents, ticketed with the dogmas of party, in lieu of character.

"Dishonesty thrives under such a system. As the leaders are, so are the volunteers—they beckon after them: the picked men of Asmodeus, the cunning thieves who are searching the store-room with an arithmetical dark lantern, while we fools, quite ignorant of state navigation, fondly imagine they are working the good ship in some mysterious manner from below. The devil of mischief and theft has occupation for his sarts, their very inactivity is masterly: sitting they hatch to life old frauds, or deposit new ones. Quiet and seemingly harmless, they consume the more while they produce the less. We are passed into an almost aristocratical corruption, and are some of us content with legs searching and stumbling in the mist of offenders.

"A session of three months and nothing done by either side for

the United States to afford a powerful proof that, in democratic commonwealths, the people cannot, by any means, be always judged by the standard afforded by their politicians.

That this decay and coarseness were felt in the presidential campaign also, should not be a matter of surprise, since, for the professional politician, all political life is summed up and condensed in the presidential election.

either side; the appropriation bills adroitly delayed and then rushed through, to shun examination; the time of all others most sacred to honor and duty, wasted in contemptible talk, or parliamentary stratagem.

"The air of the metropolis during this wicked three months is sick with scandal. Every whisper is of an intrigue or a bribe; social and public corruption hatefully mingled, taking away the last hope of manhood and of patriotism. Here we are told in one ear that good English gold is ready for so many, who have sold their constituencies, to kill a tariff; here in the other ear comes another rumor, that so many are bought on the other side to counteract the bribes of free trade. Here a vast job is divided under the rose, (a stinking rose,) among six accessories in legislative mischief. Here another and another, a dozen—a hundred—all seeking ripe and eager to be devoured. Here a caucus plotting civil war; here another, and another, and another, a score, estimating the price of a president, and ready to put in sealed proposals, baser and baser, down to the lowest.

"Were there a powerful onward movement amid all this, it might be passed over in silence; debauchery, gambling, bribery, vote auctions, caucuses of civil war, presidencies offered for sale, jobs without limit, all might be endured, were there any real action; but who can endure a camp without discipline, full of sutlers, thieves, idle envoys and a debauched following that outnumbers the battalions, and no action, the generals bargaining for places, and the fortresses governed by the spies of the enemy?

"Legislators will drink — (sic), fight, gamble away fortunes, sell jobs, and waste the time of their public agency—it is perhaps their nnatural proclivity to do so; but those of them who do nothing else, appear in a light wholly intolerable; the thought of it ends in a contempt for all government, and a scorn of all authority; somewhere it must lead at last, and the end is perhaps not far off; when the central government puts on the face of a humbug, the Union will assume the same respectable features."



One instance will suffice to show to what a low degree of demagoguery people had sunk. On the 12th of August, Meriwether, of Kentucky, a Democrat, had moved in the senate, a resolution, which called on the president for the minutest information as to how much money, and for what, Scott and Pierce had drawn from the national treasury, for their military services. It was absurd to wish to compare Scott and Pierce in this respect, and it was worse than contemptible for the senate of the Union to act before the people as if the legal compensation paid servants of the state for their official labor was a favor or a present, and as if, of the two candidates for the presidency, the one was entitled to more regard who had stood the shorter time, and in the less favorable place, at the crib of state. But all objections to Meriwether's motion were defeated by the simple argument that the Whigs of the house of representatives had four years before, by a resolution directed against Cass, created a precedent for Meriwether's motion, and that the same weapon had been used against Adams, in 1828. The Whig politicians of 1848, had certainly not much reason, in contrast with their Democratic colleagues of 1852, to exclaim: "We thank thee, O Lord, that we are not like these publicans;" but that did not really make things any better. Miserable incidents like this which had happened a generation before, when the country was in another period of transition, should not have been placed on the same level with the present one. It was not a matter of indifference that, at that early period, such things should have happened, but then they never amounted to anything more than unsavory episodes in political warfare, whereas now a frightful percentage of the politicians threatened to be absorbed entirely with them, and to depend for their importance on a certain skill in this domain.

A presidential campaign morally and politically so empty, so far as electoral speeches and the agitation in the press were concerned, had never yet taken place. And as always happens, the less people had to say and the more they wished to conceal the truth, the louder and more pretentious did they become. But the politicians talked themselves and wrote themselves into a fever to no purpose. The people did not warm towards Scott, and did not know Pierce, to whom, therefore, they were entirely indifferent, and there was no distinguishing programme. It would be a great error to wish, from the result of the election to draw the conclusion that there was not any enthusiasm in the Democratic camp. The old Democrats voted the Democratic ticket just because they were Democrats, and the person who voted for Pierce, did so because he did not want to vote for Scott. The Whigs who were not satisfied with the finality resolution did not sever their connection with the party. Here and there one might go over to the third party or abstain from voting, but the number of those who did so, did not come into consideration at all. Not until the result had shown how wrong had been the speculation that the conservatives could be kept in the party by the finality resolution, were these elements able to renounce their party spirit for the sake of their convictions on the slavery question. The apostates belonged to the conservative wing, and they became unfaithful to the old flag, simply because like the parties to the declaration of the 3rd of July, they saw no sufficient guaranty in the finality resolution with Scott as a candidate. In a word, the great majority of the people had become possessed by the quietistic conservative spirit, and did not wish their repose to be disturbed by any further contention as to the price paid for it. This gave the decision in favor of Pierce, for, as in



glaring contradiction with the entire history of the slavery question hitherto, people started out with the assumption that the disturbance of the peace would come from the opponents of finality, it was evident that the fulfillment of that wish was considered better secured by Pierce and the Democrats, than by Scott and the Whigs.<sup>1</sup>

The Whigs were defeated in the fall elections, which, in some of the states, precede the presidential election by a few weeks, and which, because looked upon as an index of the probable issue in the presidential campaign, are followed by the whole people with strained attention. The New York *Tribune*, indeed, warned the faithful to the very last hour, not to be misled by these elections, nor to despair of victory in the main battle, because luck had forsaken them in these skirmishes. But the most influential organ of the Seward Whigs which, under Greeley's influence, always looked too sanguinely on things, endeavored to inspire the party with an assurance of victory which it did not itself possess. Charles A. Dana, one of its editors, informed his militant co-worker, Pike, in a private letter, that he considered their defeat a settled matter.<sup>2</sup> But it was surprising, in the highest degree, not only to the Whigs but to the Democrats, that Pierce was elected by a majority which wrung from the *Tribune* the frank confession, that the Whigs were not only beaten but annihilated.<sup>3</sup> Only in four states—Vermont, Massachusetts,

<sup>1</sup> Foote, *Casket of Reminiscences*, p. 88. Cutts, *Treatise on Constitutional and Party Questions* as received by St. A. Douglas, p. 83.

<sup>2</sup> "I don't know how it is, but my presentiments all favor our being licked, and no ciphering and no argufying can make them any better." Pike, *First Blows of the Civil War*, p. 153. The letter is dated "Wednesday, October, 1852."

<sup>3</sup> The election of electors took place on the 5th of November; on the 8th it writes: "General Scott is overwhelmingly defeated, and the Whig party not only discomfited but annihilated."



Kentucky and Tennessee—which together had 42 electoral votes, did the Whigs obtain a majority; the 254 electoral votes of the remaining 27 states belonged to the Democrats.

When the figures of the popular vote were looked at more closely, the result of the election had a very different appearance. For the Whig electors 1,384,577, and for the Democratic—exclusive of South Carolina in which state the electors were chosen by the legislature—1,587,256 votes were cast.<sup>1</sup> A majority of over 200,000 votes was certainly large, but by no means so overwhelming that, in and of itself, it had to be looked upon as the death blow of the party, and this all the less as the Whig vote was larger by over 20,000, than that cast for Taylor in the victorious campaign, four years before. But it is evident that, in judging of the standing of a party, the popular vote is of immensely greater importance than the electoral vote.

These considerations had been made on the occasion of so many former elections, that it was impossible they could now be overlooked. Hence, it was all the more noteworthy that the conservatives, in their passionate protest against the assertion that the election had numbered the party among the dead, did not appeal to such considerations. They claimed that this absurd cry of the liberals was only an admission of their selfish wishes. The Searwards, Greeleys, etc., were, it was claimed, sharp enough to recognize that, after this issue of the election, the role they played in the party was over forever, and hence they en-

<sup>1</sup> I give the numbers according to the Statesm.'s Man., III., p. 1990. The numbers which I find in different newspapers vary more or less from these. Thus, for instance, the *Independent* of December 13, 1852, gives: 1,586,789 for Pierce, 1,373,020 for Scott, 155,948 (according to the Statesman's Manual, 157,296) for Hale.

devoured to save their own political future by its disruption.<sup>1</sup> The issue of the election really taught that the party needed only to expel those elements which had been affected by the poison of abolitionism, in order to assure itself a future worthy of its glorious past; and it would act accordingly.<sup>2</sup>

The opinions and resolves of many liberal Whig politicians may, indeed, have been influenced more or less, by the knowledge that there was nothing for them to hope in that party, because the party itself had nothing more to hope for. But they certainly did not deduce this hopelessness from the fact that the candidate put up by them had been nominated, but, on the contrary, from the fact that the party had allowed the finality resolution to be forced upon it by the conservatives. Yet, evidently, both views amounted, in the essential point, to the same conviction. Liberals and conservatives agreed with one another that the old party watchword in the slavery question

"The Buffalo Courier-Examiner" writes: "Feeling that they are themselves hopeless of rising in the ranks of a national Whig party and desiring to destroy the organization for the purpose of building upon its ruins a sectional structure in which they can rule supreme, they affect to believe that the present blow is a fatal one, and to use the misadventure of these late issues which alone have compressed the temporary ruin of the party . . . . To this platform . . . the old line within the fold of the party had acknowledged years ago. . . . The party's records, its past, its real archives, purified by the passage of time, which had been suffered to fester it, should ever stand before an every eye of his country folk." The N. Y. Times, Nov. 2, 1882.

[illegible]

"to agree to disagree" would no longer do, after the modification of it attempted by the Baltimore convention, to give the candidate to one fraction of it and the platform to the other, had led to such a result. But the recognition of this fact was the dissolution of the party, even if that dissolution was not effected in a day, and an intermediate stage had to be passed through. The conservatives might continue the old name and in defiance of the unceasing, progressive development of actual affairs, hold to the old absolute party programme with its finality appendage, but they were not on that account, after the defection of the liberals, the old Whig party any longer, but only a lifeless stump. The disruption of the Whig party on account of the slavery question, was the beginning of a new formation of parties on the basis of the slavery question, and this formation was the beginning of the end of *this* Union.

An unpleasant feeling that this was so stole over those of deepest insight. The masses, indeed, would have looked upon the man who considered the Union imperilled more than before, by the result of the election, as a fool. How could they help looking upon it as a contradiction in itself, to speak of danger now that the finality policy had celebrated a triumph, such as no one had supposed possible. Of course, no threats of secession were heard for a generation; only the slavocracy had spoken of secession, and had it not every reason to be satisfied? Apparently so, certainly, but only apparently. Its wonderfully acute instinct of self-preservation did not desert it now. Immediately voices from its ranks were heard which did not answer that question with an unconditional yes, because its victory had been so complete. The first complaints of the conquered were soon drowned by their contentions with one another; in the jubilation of victory, on the other hand, of the con-



querors, there was soon mixed the notes of a very surprising but only too well grounded complaint. The internal separation of the Seward Whigs from the old party had proceeded so far that they were the first to declare the defeat to be an annihilating one, although a comparison of votes did not at all justify that declaration; and the conservatives even expressed some satisfaction at the great victory of their opponents, because its necessary consequence would be the purification of the party from the poison of abolitionism.<sup>1</sup> But the Democrats openly confessed that it would be a hard blow for them, if the days of the Whigs were really numbered, since then an opponent would rise up against them with whom the struggle would have to assume a totally different character.<sup>2</sup> This it was

<sup>1</sup> The *Albany Register* declares: "We have no hesitation in saying, that, for ourselves, we derive great consolation under our defeat, from the conviction that it has been caused by an honest instinct of the people, by their love for their country and their determination to maintain the constitution in all its integrity and its honest spirit.

"Nor do we hesitate to say, that we find another source of great consolation in the fact that abolitionism and rebellion, their instigators and promoters, and particularly their high priests in this state, Seward, Greeley and Weed, have received a death-blow from which they never can recover. They have played out their desperate game, with the aid of others who detested their principles and their objects, and yet they are in a hopeless minority, in a political oblivion." *Ib.*

<sup>2</sup> John S. Barbour, one of the electors of Virginia, said after the victory: "While rejoicing over the victory that has been achieved, let us not forget that new battles have yet to be fought, and new victories yet to be won. Let us not hand ourselves over to any delusion, and permit our weapons to rust amid festivities and congratulations. We have routed the enemy, not destroyed him. He did not believe that the Whig party would disband. We have meliorated Whiggery very much in the recent contest, but we have not yet brought it to the point of extermination. As a party, it still stands with opposing array upon the field of political fight. He was right glad it was so; for he believed that it was best for us to keep that organization alive. We can whip them with more ease than any new organization that

that made the victory which the slavocracy had achieved by Pierce's election, the sure pledge of its eternal annihilation. The triumph of the finality policy with the disruption of the Whig party conditioned by it, gave birth to the Republican party, and the Kansas-Nebraska question, which is commonly looked upon as the cause of its origin, served it only as accoucheur.

would be substituted for that party. It was the weakest organization that could be framed out of the material in the country that was opposed to the Democratic party." *The N. Y. Tribune*, Dec. 6, 1852.

G. W. Julian, said in a speech of the 25th of May, 1853, in the Free Soil state convention at Indianapolis: "And could we extort from them (the Democrats) to-day the honest truth, they would tell us they did not intend to beat the Whigs so badly, and make them sick unto death; that they are sorry they have done so; that their own family broils can only be quieted by a concentrated animosity against such a foe as the Whig party; and that they pray for its reorganization, and dread nothing so much as a new party, built upon its ruins, which shall stand unswervingly by the principles of real democracy, and invite, from all quarters, the intelligence and worth of the land. They understand this perfectly. See how the *Washington Union* shudders at the idea that the Whig party is dissolved, and its mission ended; see how it spurns the fraternal words and repels the friendly advances of the Republic! . . . Why, just look at the present attitude of the so-called national Democracy, and tell me if there is any bond of union within itself that can atone for the loss of that external pressure which has hitherto hooped it together?" *Speeches on Political Questions* by G. W. Julian, p. 87.

## CHAPTER V.

## THE BEGINNINGS OF PIERCE'S ADMINISTRATION.

The political calm which nearly always prevails during the last months of a presidential term, set in earlier than it was wont to, after the electoral battle of 1852, and was unusually deep. The noise of the politicians stopped, as it had no longer any object, after the decision, and when they ceased that violent stirring of the dying embers of their old party differences, it immediately became apparent to what a high degree the apathy of the people had really risen. But it was necessary for them correctly to understand the nature of this apathy, if the politicians did not wish to be led by it into the most dangerous mistakes.

The defeat had, in more respects than one, promoted the self-knowledge of the Whigs. Where people had learned to judge rightly of the intrinsic untruth of the party in relation to the slavery question, it was admitted, that the very observable corruption in the party contributed largely to the catastrophe. Public opinion, indeed, was not in a paroxysm of reform. The carrying out of the principle of the spoils in the bestowal of public office, regardless of the consequences flowing therefrom, and the bold intrigues of which certain officials in high places had been guilty, had indeed, created a sensation, but had not called forth the deep moral indignation which might inquire what were the ultimate causes of the evil, and imperatively demand a change. That the Democratic politicians were not more



unselfish and more virtuous, the thinking circles of the people knew well enough. But, naturally, the more recent scandals appeared in fresher colors than the older ones, and the provoking self-complacency with which the Whigs had promised reforms, made them doubly prominent. From a craving simply for a change in party government, which had once brought them to the helm, the Whigs had nothing more to expect. Like the old Federalists they had never been a really popular party, and hence any moral delinquency injured them much more than it did their opponents. Experience had taught that they were not better than the Democrats, and that sufficed to keep away from them the fluctuating elements which turn the scales in party contests. The optimistic indifferentism with which the people looked upon the lax ethics of the professional politicians was much too great to cause the Whigs to be despised, because they had turned out to be wolves in the clothing of sheep. They were no longer listened to because their most powerful sermons were looked upon as words, and only as words. Where people endeavored, in all honesty, to form an idea of the situation as it had been discovered by the course and issue of the electoral campaign, they still hoped to be able to do some good, at most, by dropping the old firm, in order, in the modest position of assistants, to lead the triumphant competing house into their own ways.<sup>1</sup>

<sup>1</sup> "We may, as heretofore, occasionally carry the presidential election, to be followed by a remorseless scramble for the spoils, and ultimately by defection and treachery such as we witnessed during the late presidential canvass. In addition to this, the painful fact stands revealed that we have many in our midst who have no more honesty than they should have. During the late administration our people, or rather many of them, seem to have gone in for stealing on a large scale. I consider the party disgraced by Galphinisms and Gardnerisms and other isms which will ere long be brought to light. If there are not

The execution of this plan might prove impossible, but it was based on a correct idea. Disputation and denunciation in congress and from the "stump" stirred the people no longer. Party warfare had degenerated too much into mere squabbles of the politicians for power to allow the people to be disturbed in their every-day business of money making. All strata of the population ardently desired to devote themselves to the latter, as everything seemed to promise a great revival of business, provided no political entanglements interfered. It was believed that there was no reason to fear such entanglements, since both parties had pledged themselves to the finality of the compromise. This, however, should not be considered as a subsequent approval of the contract, on all sides. It was the recognition of the compromise as an irreversible fact to which, for good or for evil, people had to accommodate themselves, but which, for the sake of the restoration of peace, should be so far approved by every reasonable patriot, that the renewal of the struggle merely in the in-

astounding developments in the next few months, I shall be agreeably disappointed. We cannot elect a man who would be worth one straw when elected, and he could not avoid bringing into power the rogues, or at least many of them. Besides all that, we should have over again the same exhibitions of nepotism and favoritism which were the besetting sins of the Taylor and Fillmore administrations. Such are my anticipations in respect to the future; and yet I am too old a man to be whiffling about. I shall not, therefore, desert my party; but I am prepared to unite with the disinterested and patriotic portions of them in an effort to do something for the country, provided a door is open which shall afford a reasonable chance for success. I think such a door will be open in the course of four years, if we manage discreetly and properly. The candidate, whoever he may be, must be brought forward under Democratic auspices, and be supported in the name of Democracy, otherwise it will be nothing but Whiggery over again." Truman Smith, Chairman of the Executive Committee, to Hon. James S. Pike, Washington City, March 27, 1853. Pike, *First Blows of the Civil War*, p. 175.



terest of a party or its leaders, should be unconditionally condemned. In this sense, it was right to say that peace and reconciliation were the signs of the time,<sup>1</sup> but there had been no change in any quarter in the ethical and political judgment of the slavery question. Political contention was to be brought to an end, but its causes continued and operated with unceasing energy. The politicians kept quiet, because party spirit was sufficiently inactive to make the immediate resumption of the agitation in the service of their personal ambitions to which, in the most favorable case, the public were completely indifferent, seem unadvisable. But no one pretended that the settlement went beyond the line by which the legislative power of the federal government in reference to slavery was circumscribed. If, in spite of this, people still looked upon the slavery question as put aside by that settlement, the reason was because they still held to the old fiction that the actual difference of antagonistic principles would not make itself felt in politics after an understanding had been reached on the question of law. The wrongfulness of this assumption must have been made more apparent by the facts, with every new experiment, as considering the incessant progressive development of the actual difference, new settlements in the question of law must have become new incentives to an aggravation of the conflict. This became apparent immediately. Public opinion had so emphatically and so unanimously expressed itself to the effect that legislative action so far as slavery was concerned should be considered at an end, that even the radicals almost entirely stopped their efforts to disturb the compromise, but the law had not silenced consciences, and the number of those

<sup>1</sup> "The south has laid aside its anger and suspicion, the north regrets its jealousy of the south. Factionous differences are execrated and then forgotten." *The United States Review*, Jan. 1853.



who summoned the law before the forum of conscience steadily increased.

The radicals were not crippled by the triumph of the finality policy. In the early days of the last session of the thirty-second congress, Giddings again threw down the gauntlet to the entire variegated swarm of the compromise advocates. Even in the darkest days, the old "fanatic" had not lost hope in the final victory of the cause, but he had often sadly complained that the night was growing deeper and an anxious alas! had repeatedly escaped his lips. But in this speech, even the acutest sophist could not detect a sentence which could be twisted into an involuntary confession that he was struggling with the consciousness of harboring a forlorn hope. With victorious scorn he points his opponents to the fact which showed to a demonstration the miserable emptiness of their untruthful and shameful work of peace of the year 1850. The division taking place of the people, on the basis of the slavery question, was swallowing up the old political organizations, for they had lost their moral force. Why did the president not say a word on that subject in his message? Why was he completely silent on the fact, that, in the last three months, more fugitive slaves had escaped to Canada than ever before in an equal space of time? Singly, in small bands, in crowds of twenty even, they had marched through the country, well armed and resolved to stake their lives for their liberty, and the slave hunters had scarcely dared to make an attempt to come in their way. Why had the president refused to renew the effort to obtain from public opinion another verdict on the law which had been stigmatized as infamous? In the pulpit a different language was heard. People were no longer condemned to hear sermons on the lower law; the clergy of the north were awakening to a consciousness of their

duty and of the demands of humanity. Even the theatre, "that school of vice," had been won over to the strugglers for the truth and moved hearts which could be reached in no other way.<sup>1</sup>

This last remark pointed to one of the signs of the time which had just appeared in the cloudless finality sky, but which radiated so brilliant a light that even the most confident slavocrats could only stare at it perplexed for a moment. On the tribune, in the pulpit, in the editorial rooms of the daily press, many a powerful arm had, for two decades, rung the tocsin that told of the approach of the storm, and at times its tones had resounded so powerfully through the land that the very foundation of the republic seemed to shake. And yet it was always only a small minority of the people whose hearts and not their heads alone, had been reached by the alarm. But now a warm, womanly soul with a skillful pen sketched a few forms of the fancy on paper, and thousands and hundreds of thousands who had scarcely lent an ear to the most subtle constitutional deductions, and who had only too readily retired behind any principle of law which was offered by the politicians, in good faith or bad, as a place of refuge from the most urgent appeal to their republican love of liberty, to their feeling as men or their mercy as Christians, were deeply moved and bent their heads in shame. It does not precisely do honor to human nature, that great social reforms are sometimes more effectually promoted by a novel than by a hundred very powerful statesmanlike speeches. But it would be a very great error to assume that, in such cases, that is attained by tickling the fancy and the feelings, playing as it were, which could not have been achieved, no matter what the effort, by rational

<sup>1</sup> Cong. Globe, 2d Sess., 32d Congr., App., pp. 38, 39.

thought and moral perception. Where the statesman, moralist and philanthropist have not cultivated the field by long and severe labor, the charmed pen of the novelist will never perform such a miracle. He only shakes from the tree the ripened fruit which the sweat of the farmer has drawn from the seed. Hence his efforts will always be vain when he offers only a product of the fancy, in the full sense of the word. Only where public opinion is a power capable of bending all other authorities to its commands, can a sermon in the garb of belles lettres produce, under certain circumstances, such an effect as to make it an historical deed. The effect is produced only because public opinion throws itself with a sudden wrench, and with great force, in one direction. But a sudden conversion is beyond the power of the poet. He only gives that which has long been fermenting in the thought and feeling of the people, a concrete form. That which hitherto appeared more or less in the light of an abstraction, and which therefore remained misty and indistinct, is now seen incorporated in persons and events in such a manner that it becomes palpable to a child, whereas previously it was not grasped even by the mind of a thinking man. But the characters of the novelist are shadows, and hence make no impression unless taken from real life. Events and the ideas that govern them seem to have become flesh and blood when the fiction is entire truth. To discover whether it is so, one needs neither exhaustive knowledge nor fine critical power; whether it be truth or not is felt with complete certainty.

"Uncle Tom's Cabin," by Mrs. Harriet Beecher Stowe, created the overwhelming impression it did, because its fiction was entire truth. The south contests this assertion to the present day, with great bitterness, and undoubtedly rightly so; if it be meant to imply that the story is



a picture of the life to which the great mass of the slaves was condemned. But it would not be an easy matter to find a single bit of evidence, even in the camp of the most fanatical abolitionists, in which that is pretended. The abominations of which an account is given in "Uncle Tom's Cabin" might all have been committed against the slaves, under the protection of the law, and they were committed in no few cases, notwithstanding that the immense majority of the slaves were so held as a rule, that it was no wonder that these adult children who lived only for the moment were cheerful in the evening at their dances and amusements, and even frolicsome. That the laws sanctioned such abominations and that it was sufficient to turn over the advertisement leaves of one of the great southern newspapers for any year in order to collect the original material from which such a story could be spun, was enough to brand the system, and to make the "peculiar institution," as an institution, appear as a curse, and as a frightful blot upon the civilization of the nineteenth century. In this sense, the fiction was full of truth, and this is what its readers found in it. And this it was that, in a short time, gave the book a circulation, on both sides of the ocean, almost without a parallel in the history of the literature of any people.<sup>1</sup> How frequently it is now called for in book stores and libraries cannot be determined, but it may be said with great confidence that, not only in Europe but in the United States, the great majority of the generation which has grown up during the last twenty years know it only by name, and this, not because a different judgment is now passed upon it, but simply because from being a bit of life it has become a bit of history.

<sup>1</sup> As early as the 6th of January, 1853, the *Independent* announced, that 90,000 copies of the cheap popular edition had been sold.

Honest as the indignant complaint of the slavocracy was, that these descriptions were a caricature of slavery, as infamous as it was absurd, they did not consign them to the flames as they were wont to do with every piece of printed paper which they considered to have emanated from the abolitionists. Even in the south, the booksellers did a good business with the novel,<sup>1</sup> because the south could not ignore that it was a bit of life—if not in the sense referred to above, in one no less important. Here there were no constitutional heresies, and not a word was dropped summoning the federal authorities to take the field with the weapons of the law against this “remnant of barbarism.” But the horror which took possession of the readers of the book in the free states, the blood that coursed hot to the head and hotter still back to the heart, and the tears that stole into many an eye, were a working force which had to be taken into account, it mattered not how often people repeated to themselves: so wills the constitution, so the law determines, and both parties have pledged themselves to the finality of the compromise. Could the constitution, the laws and resolutions of the national convention drive that horror, that “fanatical” and “rebellious” blood and those tears out of the world? And if they remained in the world, how could they be prevented, sometime and somehow, from creeping into the Capitol at Washington and even from finding their way to the cotton and sugar plantations?

With what solicitude the slavocracy observed these

<sup>1</sup> Francis Lieber writes on the 6th of January, 1853, to his friend Richard Henry Stoddard, S. C.: “‘Uncle Tom’s Cabin’ sells here rapidly. One bookseller tells me that he cannot supply the demand with sufficient rapidity. Our papers have coined a word—Uncle-Tomnade—to sneer at the sympathy with the African. The fact is not a bad proof of the hold which the book takes.” Perry, *Letters of Francis Lieber*, p. 237.

symptoms of feeling was most apparent in the zeal with which its most aggressive organs endeavored to deny them all importance. The Richmond *Examiner* with triumphant scorn called attention to the fact that now, as during the emancipation movement in Virginia, twenty years before, the price of slaves had rapidly advanced, and on this it based its claim that every assault made on negro slavery was followed by an invigoration and a greater security of the institution.<sup>1</sup> This rise in the price of slaves, in times of the greatest excitement against slavery, was, certainly, a very noteworthy fact, and it was only too true that hitherto all attacks made on slavery had led to new victories of the slavocracy. But even the abolitionists had never yet made an attack aimed at the direct abolition of slavery by the federal government, because no art of construction was able to discover the power to do so in the constitution. Hence the right of property of the slaveholders had never been subjected to a direct menace.<sup>2</sup> The slavocracy had never yet harbored the slightest doubt that, by energetic and united action it could defeat its antagonists. Hence

<sup>1</sup> "The abolition people at the north attach much importance to the stir made by Mrs. Stowe and her book. They think it a great blow at slavery and slaveholders. But if we are not wholly mistaken, the effect of this, as of every other species of anti-slavery excitement, is precisely the contrary of what they expect. Its effect is to solidify and strengthen the institution of black slavery. . . . It is a curious fact that during the year 1832, when the Virginia legislature actually discussed laws for emancipating our slaves, they rose immensely in price. And now the same curious phenomenon is repeated. In the midst of all of this Uncle Tom clatter, the price of slaves has more than doubled. Seven years ago we had reason to be cognizant of the sale of a powerful young negro. He was sold for five hundred dollars. On this day he would bring upon the same spot not less than fifteen hundred." The Richmond *Examiner*, May 13, 1853.

<sup>2</sup> In Virginia and Kentucky nobody had thought of asking that all slaves should be declared free in a day. All that was desired was to do away with the principle of the natural transmission of slavery by inheritance.



the price of slaves could not be greatly influenced by political contingencies, and when people thought they must assume it so influenced, the effect was naturally to be looked for in the direction of a rise in prices, since all who were personally interested in slavery would stand by one another all the more certainly the higher the market price of slaves rose. The slave-holding interest was, therefore, unquestionably cemented by all the blows of its opponents, but that was no proof that it had gone forth with increased strength from every struggle, if by this expression was to be understood not only a greater offensive and defensive strength, but also enhanced security. Its victories in congress had always been accompanied by an aggravation of the hostile feeling in the free states; it had thereby been forced continually to increase its claims, and this again continually broadened and deepened the antagonistic tendencies of the north. Hence from the history of the slavery question hitherto, only one thing was undoubtedly certain, that people on both sides were drawing nearer and nearer to a catastrophe; but the question which of them would in the last, decisive struggle prove to be the stronger, was not by any means unconditionally answered in favor of the south. The man, therefore, who understood the teachings of the past could not but draw from the impression "Uncle Tom's Cabin" had made, the conclusion that, spite of all finality resolutions, a new collision was at hand, since the south would consider itself again compelled to meet the new blow inflicted on it by new demands on legislation; the revolt of the ethical conscience of the time from slavery was to be counterpoised by strengthening its legal position, that is, a further aggravation of the differences between the legislation of the land and the convictions of the people was perceptible.

The slavocracy, however, had learned enough from the experience it had had already—so long as its passions were not excited by the heat of the struggle—not to request new services from federal legislation with a light heart. Hence, it was not surprising to see the suave *Richmond Examiner* unctuously arguing that the sensation caused by "Uncle Tom's Cabin" was not produced by the moral horror with which the world looked upon negro slavery. True, it was not easy to find any other explanation of that sensation. The *Examiner* thought that Europe must have seen an allegorical disruption of its own social circumstances, in "Uncle Tom's Cabin."<sup>1</sup> It can scarcely be imagined that the author of the article himself believed the nonsense he wrote. The assertion is so absurd that it can be explained only by the conviction that the solidarity of the Christian civilized world, claimed by the abolitionists, in respect to the judgment to be passed on slavery, should simply not be admitted to be a fact. Hitherto the blows dealt with the weapons of ethics and positive

<sup>1</sup> "One hundred editions of ten thousand copies each have been issued, and the European public who never saw a (black) slave, is still unsatisfied. Such a fact cannot be accounted for either on the literary pretensions of the book itself, or on the abolitionist idea of an active hostility to negro slavery. A more probable explanation is, that the people of Europe see themselves and their rulers in the slaves and their masters, and give to the book a political significance which feeds the flame that smoulders in the breast of oppressed millions. The press is not free there—no book advocating the general dogmas, (all true enough if the distinction between the black and white races was out of the question,) in Mrs. Stowe's novel, could be written by an European without incurring severe penalties—and that fact gives spice to the allegory which they make of Tom's Cabin. The book will never have any effect on slavery in the United States, because it is all nonsense, so far as negroes and Caucasians are concerned—but it may, in the manner we have stated, produce a very distinct and decided effect upon affairs in Europe." *The Richmond Examiner*, April 29, 1853.



Christianity were parried by calling the abolitionists ignorant and crazy sentimentalists, irresponsible fanatics, leveling hypocrites and reprobate demagogues, and by trying to prove by the theology of the schools, that slavery had been sanctioned both by the Son of God, in the New Covenant, who from mercy had died upon the cross, and by the strictest divine commands in the Old Testament. But if it had to be admitted that the moral consciousness of Europe condemned the peculiar institution just as emphatically, it was senseless or at least of no value, to search the dictionaries for all kinds of honorable titles for the abolitionists, and senseless for the theologians, after the example of the politicians, in their art of interpreting the constitution, to explain away and out of the Bible the spirit of continual moral progress on the basis of brotherly love and the fatherhood of God, of whom all men are children. The slavocracy might indeed say, of Europe, and with more justice than it could be said of the American abolitionists, that it was not sufficiently acquainted with the actual condition of things in the southern states; but that did not alter the practical consequences. Yet, if that moral judgment of condemnation was wrong, the question would still have been: Can the south, relying upon laws which it has had passed by an artificial and forced interpretation of the constitution and with the help of a subservient minority of northern politicians, bid defiance in the long run, to the moral consciousness of the majority of the people backed by the moral consciousness of the leading civilized nations, that is to the Times-Spirit? How greatly the slavocracy recoiled from putting this question to itself so plainly that it might and must receive an entirely unambiguous answer, appears from the more than ingenuous attempts like that of the *Examiner*, to deceive the south as to the force with which the current of the



Times-Spirit ran in the direction of its opponent. But this recoil and these attempts to deceive were themselves a very clear answer. The person who would not or could not recognize this, was occasionally answered in words from the same lips in a manner which left nothing to be desired. Conscious, unprincipled and selfish demagoguery was much more strongly represented in the political circles of the north than in those of the south. The leaders of the slavocracy struggled with terrible honesty, for an interest on whose unconditional preservation the continuance of the entire political and social order of the slave states depended. Hence, they could not be satisfied with simply closing their eyes whenever the danger to that interest was made so frightfully apparent by events that no dialectics and no sophistry could argue away the fact of the danger from their own minds and from the instincts of the masses. And when stern necessity forced an honest answer to that question from them, it was always a very distinct No! The same Richmond *Examiner* which had sought to allay the alarms of its readers by the ridiculous allegory of European affairs, unreservedly acknowledged a few weeks later the Calhoun principle: we are lost if we cannot prove before the forum of political ethics and Christian morality, that negro slavery is a positive good.<sup>1</sup>

<sup>1</sup> "The time was when condemnation and regret were the only sentiments entertained towards that institution (slavery). Much of that morbidly mistaken impression owed its origin to the unwise doubts and ill-considered language of eminent southern men. Often they gave sanction and concurrency to opinions militating against the justice, the moral rectitude, the social benefits, and the political excellence of domestic slavery. They not only tolerated, but approved the absurd phantasy that 'slavery in the abstract is wrong.' They suffered themselves to believe and say that slavery was an evil, social, moral and political, only to be excused by the necessities of our situation. There was, even in their justification of the institution, a tone of deprecation, of humility, as though they were conscious of shame, and only desired

The frank admission that the time was past, when the constitution and the laws alone were sufficient for the safety of slavery, was of course not to be understood to mean that the south would henceforth devote all its strength to an academic refutation of the erroneous conception of the Times-Spirit of the ethical nature of negro slavery. The admission was made in no small part, with the intention of drawing the very opposite conclusion from it. There was scarcely a single person of political note in the entire south, who honestly harbored the delusion that public opinion in the free states and Europe, could be converted by any argument to a belief in the principle that negro slavery was a positive good. There was no idea, not even a remote one, of convincing people; but the ethical nature of slavery was recognized as the finally decisive element, partly in order that by the unconditional advocacy of the moral justification of the peculiar institution, the germs of the dragon seed of doubt might be smothered in the south itself, and partly in order to infer from it the right to break down the last legal barriers which had been erected within the spheres of federal legislation, between slavery and freedom, to the prejudice of the former. The admission was not a signal for retreat given in the consciousness of weakness, nor even an admonition, with wise foresight to be satisfied with what had been already achieved, but an announcement that an armistice was impossible—that forces which absolutely escaped the control of legislative action and of the wishes

to escape its punishment. All this was wrong; it was an error that well-nigh proved fatal. . . . No pressure of necessity; no conviction of legal right; no consideration of mere expediency will long induce men to tolerate that which they believe to be a great evil in itself. The south, of course, found its enemies constantly gaining strength, courage and hope, while the contest was maintained on these principles." *The Richmond Examiner*, Dec. 16, 1853.



and will of individuals, made the prosecution of an aggressive war to complete victory, an unavoidable necessity.

It would not have been at all acceptable to the slavocracy, if people at the north had understood that this was the only right meaning of its declarations concerning the ethical side of the slavery question. But that was not to be feared, as it was not itself by any means clear on the subject. Since Calhoun's death, the slavocracy had had no man who followed consequences from their premises to the final conclusion with implacable logic. In the north, new men had entered on the stage of national politics, men whose statesmanlike calibre was yet to be demonstrated by practical tests; but among the slavocracy the men were apparently not equal to the problem. Its leaders were politicians who, so far as the final results of their endeavors were concerned, allowed themselves to be led mainly by their instincts and feelings, and who, as a rule, confined their realistic consideration and action to the prosecution of proximate ends. It would be very wrong to connect what has been said above with subsequent events, in such a manner as to make it appear that there was just now a sly conspiracy planned with refined bad faith against the compromise of 1850, so recently ratified. It did not occur to the slavocracy for a moment to look upon the finality of the compromise, as a bed of down, on which it might idly stretch itself, and in sweet slumber forget the coming struggle. It was so active in the last session of congress during Fillmore's administration, that it could be certainly expected it would go to work with resolution the moment it felt itself sufficiently master of the situation by Pierce's entrance into office and the new composition of congress. to hope confidently for success. But eminent as was the importance of its projects, they contemplated only an increase of the power of the slavoc-



racy, and did not affect the settlement in regard to the constitutional questions in debate. That any increase of the power of the slave-holding interest was incompatible with domestic peace, was, indeed, certain enough. But the slavocracy could not be accused of a perfidious attack on the compromise of 1850, and the public opinion of the north, considering its craving for peace, was satisfied with the compromise, so long as the south was not in a position to undertake the execution of its projects. The second session of the thirty-second congress passed away in a manner which must have left the impression of a complete calm, and even of emptiness on distant and superficial observers. Although the newspaper press in the United States has received a greater development than in any other country, newspapers, in ordinary times, do not, by any means, furnish exhaustive reports of the proceedings in congress, and the stenographic reports are seldom taken up outside of political circles. But as the politicians—inclusive of the press with few exceptions—looked upon the slavery question as removed from the order of the day, the public heard scarcely anything of the occasional expressions and speeches which went to show that the water apparently so smooth, would soon be the scene of the storm which had just been bound. The longer the outward calm lasted, the more did those circles on both sides of Mason and Dixon's line, who were not entirely disinclined to a renewal of the agitation, become convinced that a long era of peace was beginning. Hence, we need not here consider the incidents in that session of congress which demonstrate the erroneousness of this view, since we shall refer to them hereafter, in connection with the further development of the questions to which they relate.

Pierce's inaugural address did not shake this assurance of peace. If people had not become too accustomed, re-

cently, to look at things only through the colored spectacles of their wishes, they would have found sufficient occasion, in this draft of a programme, to look into the near future with serious alarm. The address was, in more than one respect, of a kind essentially different from that of the addresses of all former presidents. Pierce did not read it, but spoke it without notes. The oratorical pathos and lively gestures of the president no doubt enabled the listening masses to hear the sharp northeast wind and the drifting snow better than they otherwise would, but whether the innovation which approximated this solemn act of state, even in this external regard, to a stump speech could be approved, was another question. Still it was naturally much more important, that the similarity was not confined to external form. The whole tone of the address too disagreeably recalled the provoking, presumptuous language which Young America was wont to make use of on every occasion. The measured, dignified mode of expression which became the head of a great state, whenever he appears publicly in his official character, had assumed a conventional form in the United States. This form Pierce had not exactly broken through, but in several of the most noteworthy places it appeared as a rein not very willingly borne. The party head was heard in the address, and even the head of a party which was resolved to turn its supremacy to account without spending much strength or time on conscientious scruples as to the *What* or the *How*.

There were, unquestionably, in the professional politicians, as in all other men, all gradations of color, from white to black, but taken in the aggregate, they had for a long time become a distinct class of such a sharply marked type that the people sufficiently recognized the nature of that type to know that, in an infinite number of things,



there were precisely five which they had to leave alone, no matter what party was in power. Hence, it was more than a want of taste that the president confidently held out a prospect of integrity and economy in all branches of the administration so pronounced as never to be justly called in question.<sup>1</sup> As, for many years, he had, as a fellow actor and director, been on the most intimate relations with these circles, what was a matter of common talk, since Jackson's administration, could not have been unknown to him. A promise to endeavor to give the country an honest and economical administration would have been in place; but the emphasis with which he pretended to hope for the complete success of his endeavors made the promise a clumsy and unworthy piece of demagoguery. And it was all the more markedly so, as the president, immediately thereafter, professed his adherence to the doctrine of the spoils with a frankness which, to say the least, had hitherto been unheard from the mouth of such a man, in such a place. And it was bold sophistry, on his part, when he, at the same time, remarked that no government which was conscious of its responsibility could be supposed to allow its opponents to remain in places

<sup>1</sup>"In the administration of domestic affairs, you expect a devoted integrity in the public service, and an observance of rigid economy in all departments, so marked as never justly to be questioned. If this reasonable expectation be not realized, I frankly confess that one of your leading hopes is doomed to disappointment, and that my efforts in a very important particular must result in a humiliating failure. . . . Higher object than personal aggrandizement gave direction and energy to their (the masses of my countrymen) exertions in the late canvass, and they shall not be disappointed. They require at my hands diligence, integrity, and capacity, wherever there are duties to be performed. Without these qualities in their public servants, more stringent laws, for the prevention and punishment of fraud, negligence, and peculation, will be vain. With them, they will be unnecessary." *Statesman's Man*, III, p. 2022.



which required a cordial co-operation with the government.<sup>1</sup> This was applicable only to political offices in the real sense of the term, and the absurd demand has never been made in the United States that these should be left in the hands of persons who were not in full agreement with the government. But neither was anyone foolish enough to suppose that this announcement of Pierce was intended for that small class of officials. It was intended for every postmaster, every custom house officer, every clerk and every doorkeeper in the federal service, and with all of these, the good and skillful fulfillment of their duties of office, by no means depended on their being orthodox and zealous Democrats. In a certain sense, the very contrary might be asserted. If the "cordial co-operation" demanded by Pierce of these officers had any sense, it could only mean agitation for Democratic party interests, and this agitation claimed, as a matter of fact, more or less of the time which should have been devoted to the duties of their office, but, as a rule, it had other and more important consequences, which were irreconcilable with a conscientious discharge of those duties.

But when, on the other hand, the president said that he felt himself indebted, for his elevation, only to the masses

<sup>1</sup> "Offices can be properly regarded only in the light of aids for the accomplishment of these (those mentioned in the foregoing quotation) objects; and as occupancy can confer no prerogative, nor importunate desire for preferment any claim, the public interest imperatively demands that they be considered with sole reference to the duties to be performed. Good citizens may well claim the protection of good laws and the benign influence of good government; but a claim for office is what the people of a republic should never recognize. No reasonable man of any party will expect the administration to be so regardless of its responsibility, and of the obvious elements of success, as to retain persons, known to be under the influence of political hostility and partisan prejudice, in positions which will require, not only severe labor, but cordial co-operation." L. C.

of the people and that he could and would bestow office, without being hampered by any considerations of a personal nature,<sup>1</sup> he was perhaps indulging in idle phrases. Whether he would keep this promise in the sense which the unbiased reader would attach to his words, the future would teach. We shall soon get the answer to this question and see what a deep-reaching influence it exercised on the course of events. Only this one thing was now certain, that the pretty words of the president proved in truth the disheartening fact, that, the bottom had not yet been reached in the question of the spoils system which poisoned the whole public life, but that the course in that matter was downward still.

This alone was sufficient to provoke one to assume a distrustful attitude or at least a very cautious one, towards the other pretty words in the inaugural address, until such time as the acts of the administration had afforded the necessary material for a well founded criticism of them.

The president did not need so emphatically to repel the thought, that he could have made himself so ridiculous as to withhold a portion of the booty of office from his own party, for neither the Whigs nor the Democrats had harbored so foolish a suspicion. And just as little were friends or foes surprised to hear him declare, with still greater emphasis, that the opinion of the fathers of the republic, that the territory of the Union was as extensive as the nature of a federative republic would bear, was

<sup>1</sup> "Having no implied engagements to ratify, no rewards to bestow, resentments to remember, and no personal wishes to consult, in selections for official stations, I shall fulfill this difficult and delicate trust, admitting no motive as worthy either of my character or position, which does not contemplate an efficient discharge of duty and the best interests of my country." *l. c.*



wholly ungrounded. Not only had the opinion long prevailed that this view had been completely refuted by experience, but the whole people had expected to see the new president draw from it the practical conclusion that the moment was a good one to acquire new territory. Notwithstanding this, the lofty sentences, in which Pierce gave the assurance that this acquisition of territory should be striven for only by the most honorable means, did not meet with unconditional and universal credence, and did not deserve it. People were not surprised at the cupidity thus openly confessed, but it nevertheless awakened serious anxiety in certain circles. Although no name was mentioned, everyone knew that Cuba was meant, and the address did not intend to leave anyone in doubt on that point. But precisely because Cuba was in question, these assurances should not have raised any claim to unconditional confidence. The history of the annexation of Texas, and especially the history of the time immediately preceding the Mexican war, had furnished strong illustrations as to what means a Democratic administration could consider entirely honorable, when it went hunting for territory, and was it entirely undoubted that Pierce would have a much narrower and more sensitive conscience than Polk? The promise that he would endure no new filibustering expeditions, was perhaps honestly intended, although there were already examples to show that the federal government thought it had done its duty as a friendly power, when it had only issued a proclamation against the filibusters. And that Pierce contemplated contingencies in which the honesty of the means employed by him, might be judged differently, could be inferred from the fact, that he had introduced these assurances by the assertion that the acquisition of Cuba might become essential to the protection of the United States, and to the preservation of the



peace of the world.<sup>1</sup> Evidently what he had principally in mind here, was the slave interest. But if this interest considered the acquisition of Cuba to be necessary for its security, would it suffer the means to the attainment of its end, to be tested by a very delicate balance? Even if the president honestly intended to prosecute his aims only in the most loyal manner, it was very much to be feared, that he would not be able to remain faithful to his intention, after he had once declared this extension of territory to be an essential part of the programme of his administration, and given it plainly to be understood, that the slavocracy had a right to expect it from the federal government. But above all things, it was undoubted that the plan, independently of the manner in which it was sought to execute it, precisely on account of the special interest the slavocracy had in it, would meet with the most decided resistance from a great part of the people. Hence, Pierce, in the first hour of his presidency, again threw the apple of discord between the two geographical sections of the country, although he did not touch a single one of the stipulations of the compromise, or one of the debated constitutional questions. The complete inutility of all attempts, in the face of the ever-developing conflict between actual circumstances and material interests, to end the struggle by legislative agreements on certain points, could not be more forcibly illustrated.

The complete ignoring of the problem which constituted the actual and constitutional existence of slavery in one

<sup>1</sup> "With an experience thus suggestive and cheering, the policy of my administration will not be controlled by any timid forebodings of evil from expansion. Indeed, it is not to be disguised that our attitude as a nation and our position on the globe, render the acquisition of certain possessions, not within our jurisdiction, eminently important for our protection, if not in the future essential for the preservation of the rights of commerce and the peace of the world." *Ib.*, p. 2020.

portion of the Democratic republic made up of political commonweals with equal rights, had its roots in the illusion that a legislative agreement in regard to certain controverted points, could prevent the continuance of the causes, in consequence of which, these very points had been so violently and so bitterly contested. If views had differed only in regard to certain pertinent constitutional questions, the quarrel could never have assumed such a character, considering the great interest which all parts of the republic had in the preservation of domestic peace and of the Union. People did not quarrel because they interpreted the constitution differently; but because people occupied different standpoints in their moral and political judgment of slavery, and because material interests in respect to it, were in irreconcilable conflict, did they, on both sides, insist with so much tenacity and regardlessness of consequences, on the appearance of warrant that they saw in the constitution for their own view, that the Union was threatened with disruption. Hence legislative compromises did not at all touch the causes of the struggle, but only gave a positive legal decision, in respect to certain consequences of it. The side which believed it had lost more than it had won, by the decision might, indeed, submit, but even with the most complete submission, it could never pledge itself to the decision as to the correct one. And yet it had evidently to do this, if it would not, at the next manifestation of the difference, carry all the bitterness accumulated in former quarrels into the new struggle.

The position Pierce occupied, was the one according to which, the opposition between moral and political convictions and material interests could and must be silenced, after an authoritative decision in reference to the controverted legal questions, had been given. Hence, he asked



that obedience should be yielded to the provisions of the compromise, not only "without reluctance," but even "cheerfully."<sup>1</sup> And therefore he was probably not conscious that, by the announcement of his Cuba project, he had again opened the Pandora box of sectional contention, and again set at liberty all the evil spirits which it was supposed had been put in unbreakable fetters by the charm of the compromise. After he had accomplished the mischievous deed, he expressed in tones of the fullest honesty, the expectation, that the tomahawk fortunately buried should never be dug up again.<sup>2</sup> And public opinion, in its aggregate judgment, clung only to this consoling word, although the passage about Cuba was noted, and awakened serious reflections.

Greater attention would have been paid to that passage as well as to the other things in the address which bore directly or indirectly on the slavery question, if the minds of the people had been more strongly turned towards the great political questions in general. But congress was not to meet for nine months, and the policy of the administration could not rightly begin to make itself felt till then. Preparations and beginnings might be made, but the president could take no decisive steps on his own responsibility alone. Hence, people thought they might with impunity and without any qualms of conscience, enjoy some time longer the pillow of rest, which the proclamation and acceptance of the finality resolution offered to

<sup>1</sup> "I believe that . . . the laws to enforce them (the rights of the south) should be respected and obeyed, not with a reluctance encouraged by abstract opinions as to their propriety in a different state of society, but cheerfully, and according to the decisions of the tribunal to which their exposition belongs." *Ib.*, p. 2024.

<sup>2</sup> "I fervently hope that the question is at rest, and that no sectional, or ambitious, or fanatical excitement may again threaten the durability of our institutions, or obscure the light of our prosperity." *L. c.*



political exhaustion. No one felt tempted to move about in the slime which the political ebb had left behind it, while the business flood ascended and everyone endeavored to drive his own boat forward, with powerful strokes, in its fresh waters. People thought they had discharged their duties as citizens, when they had followed the arrangements made by Pierce with critical eyes; that is, when they had observed to what terms he had come with the magnates of the party and the great hungry crowd, concerning the booty. But they followed even this—the composition of the cabinet alone excepted—only with idle curiosity, since they looked upon it all as an affair of the party or of the party politicians. Only when it began to appear that the spoils were, under certain circumstances, a disintegrating rather than a binding force, did people commence to judge differently, but still without suspecting or being able to suspect that this contention of the politicians for the booty would be the direct occasion of the sad end of the beautiful finality dream.

Pierce had sent the nominations for his cabinet to the senate on the 7th of March. They were immediately confirmed, so that the members of it were able to enter on the duties of their office next day. But from this, it must not be inferred that the composition of the cabinet was in harmony with the wishes and expectations of the party. People looked at one another in wonder, shook their heads and did not know what to make of it. If only the amount of talent, political experience—and if the expression be permissible—and rank in the party were looked at, the cabinet was as good a one as could be made out of the material at hand. But, in the aggregate, it had no political character, for the reason that it was a faithful mirror of the party. Every fraction had been remembered, and it was therefore a mixture in which the extreme members

had nothing in common but the party name. According to pure constitutional theory, no objection could be made to this, since according to it, the members of the cabinet are only the secretaries-in-chief of the president, without any share in their own right, in the constitutional initiative of the president,<sup>1</sup> and without any direct responsibility for their action. That, however, was only the theory, and by no means the actual condition of things. Hence, it must have been a bold step to constitute the cabinet in this way, that is without any regard to its political homogeneity, unless the cabinet, congress and the people recognized the superiority of the president, in intellect, judgment, will and esteem, as an incontestable fact. But Pierce could not be suspected of such foolish self-overestimation. The passage in the inaugural address on his complete freedom of action, should have suggested that he thought of collecting about him as his advisers in the cabinet representatives of all groups of the party, and that he was determined to do this by the idea that it was the simplest and surest way to make his administration conduce to the welfare of the party and therefore also of the country, since all fractions would then be satisfied and would gladly give him their support. He might have calculated at the same time, that party discipline in conjunction with the feeling of solidarity as a cabinet, would be strong enough not to

<sup>1</sup> Peckham of New York, Democrat, said on the 18th of May, 1854, in the house of representatives: "Sir, the members composing this cabinet were selected upon compromise views, each man being the representative of opposite political principles, except one (Cushing), who is the type of them all. They stand as much opposed to each other politically, as the Turk to the Christian, the Jew to the Gentile, in religion." Congr. Globe, 1st Sess., 32d Congr., App., 689.

<sup>2</sup> "Independent duties, in the performance of which they have themselves to take the initiative, often devolved by law upon the ministers. I would recall Jackson's claim in the bank controversy, to be the last decisive authority, even in such a case."



allow the collisions inevitable where there were so many different elements to extend beyond the cabinet council, and to cause the cabinet members to be always in favor of one policy vis-a-vis of congress and the people. This, at all events, happened in the most important case which came up for discussion and decision during his presidency. But from the fact that he made the guiding fundamental idea of his administration the endeavor to keep the no longer homogeneous party together, by all available means, he brought himself and a part of his cabinet, in that very question, into a forced position, which compelled them to carry that fundamental idea to such an extreme, that, against their own better convictions and knowledge, they had to trample what had hitherto been the programme of the party under foot, and by that means they compelled a considerable portion of the party to sever their connection with it.

Long before the endeavor of the president to be on cordial terms with all groups of the party had culminated in this surprising result, it had become manifest that his entire calculation was based on a fundamentally false supposition. The different groups of the party were far from considering themselves equally good, and hence the equal attention paid to all, by no means pleased them. To a certain extent, indeed, the considerations which had guided Pierce in the constitution of his cabinet were approved, for they were unquestionably the consequence of party government, and all preceding presidents had been led by them in the formation of their cabinets. Had none of the members of the cabinet occupied a more marked position within the party than the secretary of the treasury (J. Guthrie, of Kentucky), the secretary of the navy (J. C. Dobbin, of North Carolina), the secretary of the interior (R. McClelland, of Michigan), and the post-



master general (J. Campbell, of Pennsylvania), people might have been satisfied with it, although, naturally, thousands were convinced that a wiser and juster selection might have been made. But the three most important personages of the cabinet must have been looked upon as a provocation or a challenge to one fraction or another.

The secretary of war, Jefferson Davis, would, indeed, after the part he had played in the struggles preceding and following the compromise of 1850, have been a somewhat strange figure in any cabinet, and certainly he did not belong in a government whose main pillar was the finality of that compromise. True, he had submitted to the compromise, but only as his political antipodes in the north had done, who continued to look upon it as infamous, that is because further resistance to it was entirely vain; but that he had changed his views since he had been defeated by Foote in the election for governor, no one had heard. If the wish to secure the support of all fractions of the party went so far, that even those were called into the government, who on principle were endeavoring to force the Union before the alternative of its being or not being, unless they were able to assert their views and will on a certain question, the desire for reconciliation must have degenerated into unprincipled weakness. If the principle so strongly advocated in the address, that, in a republic, no one had a claim to an office, was correct, certain it was that people with political antecedents like Jefferson Davis, should be the last to expect from the head of the federal government, so noticeable a distinction in the distribution of office. And it was evidently just as unwise politically to take this man out of the obscurity of private life, to which he had retired, after his unpatriotic and politically dangerous agitation had been disavowed by his own state, for that might at least create the appearance that

such machinations could calculate on a premium, provided the agitator had only understood how to make himself sufficiently feared. In the south, Pierce could by this, only win the fruitless, or even dangerous good will of certain classes;<sup>1</sup> while, in the north, it must have injured the moral weight of his administration. There was no desire for proscription there, but to many people it seemed neither wise nor reassuring to act as if the president did not need to attach any weight to the question how far the political convictions and tendencies of a statesman were compatible with the unimperilled continuance of the Union. If the president found nothing in the convictions and tendencies of the school to which Davis belonged, which forbade his calling one of its most prominent leaders into his cabinet, who could tell how far he would, under certain circumstances, extend the limit to which he might follow its advice? A president who, in the choice of his chief advisers and of the most influential servants of state, considered so broad a toleration to be wise and patriotic, ran the risk of being suspected of laxity in his own principles and convictions.

The man who, in consequence of Davis's selection, entertained this suspicion, might easily be led to look upon his suspicion as a probability, by the nomination of Caleb

<sup>1</sup> H. S. Foote writes: "These two sage advisers (Hunter, of Virginia, and Caleb Cushing) are understood to have counseled Mr. Pierce to call to his cabinet Mr. Jefferson Davis, of Mississippi, who was then in profound retirement after his unsuccessful experiment of secession in 1851, in which retirement it is quite certain he would have permanently remained but for Mr. Pierce's being weak enough to act upon this advice. It is understood that this appointment was made with a view to conciliating the secessionists of the south, who had, as already observed, yielded to Mr. Pierce but a cold and reluctant support, many of them, indeed, and especially in Mr. Davis' own state, having declined altogether voting in the presidential election." *Casket of Reminiscences*, p. 90.



Cushing as attorney general. Cushing was unquestionably one of the best informed and most acute jurists of the country, and his readiness, eloquence and reckless energy made him one of the most valuable champions or one of the most dangerous opponents on the political stage. As a political character, on the other hand, he occupied, perhaps, the first place among all the problematic natures in the noteworthy politicians of the Union. Because of the passionate, and in many respects disloyal ways in which party struggles are carried on, every sin against "consistency," that is every change of opinion, is denounced in the United States, with a moral indignation which completely denies the statesman all right to develop, to learn from experience and to change his politics with changing circumstances. But one did not really need to take his position at this wrong point of view, in order to have his doubts as to the honesty of Caleb Cushing's variations; for his opinions on the slavery question had run through all the points of the compass-card. The capacity to invert his thoughts might have made him an invaluable attorney to a client with a doubtful or delicate case; but, in an attorney general of the United States, who had to tell the president simply what the law was, and not what it might be or should be, it was incontestably more desirable, that things should not change form before his intellectual eyes with every change of position. Whether there would be occasion for him to exercise this dangerous versatility of his intellect, in an official written opinion, was very questionable. But these opinions are only a small part of the work of an attorney general. He was not only the legal counsel of the president, but also one of his standing political advisers. And precisely because of his efficiency in this capacity, it might happen that his astounding ability to modify his political thoughts and sentiments, should become a matter of dan-



gerous significance, since he far surpassed Pierce intellectually, and was a master in all the arts of dialectics and persuasion; and, as regards the proverbial zeal of the renegade, was no exception to the rule.<sup>1</sup>

Jefferson Davis and Caleb Cushing supporting the arms of Pierce, the Moses who was to defeat the Philistine agitators with the finality sword, and lead the people into the Canaan of the dreams of Young America, was a picture which might well move the intelligent patriot to send up to heaven, for the embarrassed president, who was commending the cheerful execution of the Fugitive Slave Law, the prayer: "Lead us not into temptation."

The reasons for which an influential party group took offence at the nomination of Marcy as secretary of state, had no connection whatever with these considerations. The question of political authority, indeed, played some part here too; but it was not, as in the case of Jefferson Davis, the real reason, but solely or preponderantly only the decent cloak thrown over a disgusting scuffle for office. The old quarrel of the Hards and the Softs, in the state of New York, was felt again for evil in the course

<sup>1</sup> In a speech which Benton made, on the 21st of July, 1856, as a candidate for governor, in St. Louis, he said of Cushing: "Of all these (the members of the cabinet) the attorney general is the master spirit. He is a man of talent, of learning, of industry—unscrupulous, double-sexed, double-gendered, and hermaphroditic in politics—with a hinge in his knee, which he often crooks, 'that thrift may follow fawning.' He governs by subserviency; and to him is deferred the master's place in Mr. Pierce's cabinet. When I heard that he was to come into the cabinet I set down Mr. Pierce for a doomed man, and foresaw the swift and full destruction which was to fall upon him. I had known Mr. Cushing as an abolitionist, voting against Arkansas because she was a slave state, and backing Slade of Vermont, in the attempt to abolish slavery in the District of Columbia. I had known him as a Whig, attacking the Democracy and all their measures; and as a Tylerite, auctioneering offices for Tyler as long as he had an office to go to the hammer."

of federal politics. Marcy was numbered by the Hards among the Softs, who had accepted the compromise of 1850, only reluctantly and unwillingly. Hence the Softs were only renegades in the eyes of the Hards, and scarcely deserved the name of Democrats. If they could not be expelled from the party for reasons of expediency, they should at least be looked upon and treated as Democrats of the second class. Hence the calling of Marcy to the head of the cabinet grieved those who, under Dickinson's leadership, had followed the south through thick and thin, without reflecting for a moment, and they immediately gave it to be understood, that this choice suggested the propriety of raising the question how deep and trustworthy the orthodoxy of the president himself was. But as it could, by no means, be definitely said to what extent Marcy could rightly be counted among the Softs, so far as there was question of their attitude towards the slave interest, and he unquestionably was one of the magnates of the party, and as he had even been seriously spoken of as a presidential candidate, the dissatisfaction with his nomination would have been confined to a little grumbling, if people had not inferred from it that the administration, in its further distribution of the spoils, would look upon the Softs as having equal rights. It was only in consequence of the confirmation of this fear that the nomination of Marcy was swollen into an act of crying ingratitude, serious heresy and even dark treason.

The variance which the spoils question had created between the administration and the orthodox Democrats of New York ripened into a crisis, when the coalition of the two wings of the Democratic party was broken at the state convention at Syracuse. The administration thought it could best secure the victory of the party in the state elections which took place in November, by favoring the



Softs, and to do so, it of course made use of the spoils. The secretary of the treasury, Guthrie, sent to the collector, in New York, Greene C. Bronson, an instruction on the consideration which should be shown the different party groups in filling the places in the custom house. Bronson, in an exhaustive answer, questioned the right of the secretary to give him such instructions,<sup>1</sup> but claimed that he had divided the places equitably among the factions. The United States district attorney, Charles O'Connor, advocated the position of the collector in a long communication which was likewise given to the public, by the press.<sup>2</sup> Guthrie answered the collector on the 22d of October, and made his answer public. The secretary claimed that he had been misunderstood as asking the giving of office to Free-Soil Democrats. If he had known that such persons had been appointed by him (Bronson), he would not have confirmed them. He simply asked: who has supported the Democratic party since the Baltimore convention of 1852? These and these alone should be considered in the bestowal of federal offices.<sup>3</sup>

The principle that federal offices were intended to reward political jobbers for the services they had rendered

<sup>1</sup> New York *Tribune*, Oct. 18, 1853.

<sup>2</sup> *I. c.*

<sup>3</sup> "I neither entertained nor expressed any such desire. It has been my pleasure and my duty, not to inquire into the opinions which may have been held by yourself and others as far back as the year 1848, but to regard the claims (the inaugural address had so emphatically rejected this word) to considerations of all who have acted with fidelity to the principles and organization of the Democratic party since the convention at Baltimore in 1852, and those only. And with these views I must condemn your course when in this letter you inform me that you have selected Free Soilers for office without having given me the notice of the fact, which would have enabled me to withhold my approbation from any such appointments." *Ib.*, Oct. 25, 1853.



in electoral campaigns had never before been publicly advocated by a minister of state with such ingenuous barefacedness. Still public opinion had scarcely anything to say against it, and the Bronsons and O'Conors, of course took no serious offence at it. The latter were only incensed that they were to be prevented from making use of the federal patronage to secure their preponderance in the state over their rival fraction which scarcely deserved the crumbs because they had made shipwreck of their orthodoxy. And that this was called an unwarranted encroachment on the legitimate powers of the states, is one of the strangest and most instructive illustrations of the doctrine of states rights. But good as might have been the reasons of all good and intelligent patriots to be seriously alarmed, by the centralization heresy of Pierce and his minister, for the continuance of the federative foundation of the Union, Pierce and his minister had the power and dared to use it. Bronson was removed because of his insubordination and—the administration suffered a decided defeat in the November elections.

It had operated, at the same time, in Massachusetts, in the same way, and with the same result. Cushing had, in a letter of the 29th of October, to R. Frothingham, Jr., expressed his great displeasure, that in several counties the Democrats had come to an understanding as to the elections, with the Free Soilers. He claimed that that was not only a mistake, but the abandonment of a fundamental principle.<sup>1</sup> The Worcester correspondent of the *New York Tribune* reminded him that he had not always

<sup>1</sup> "I perceive that in several counties in Massachusetts coalition senatorial tickets have been formed of associated Democrats and Free Soilers. My judgment is that the Democrats who have participated in this, have done worse than to commit a fatal error. They have abandoned a principle which is fundamental." *Ib.*, November 1, 1853.

thought so, and that he was himself indebted to coalitions.<sup>1</sup> But Cushing might have reminded the correspondent, that he had long since endeavored to make it clear to the people by his action that he did not feel himself obliged to remain true to "fundamental principles" for two or four years. Now his fundamental principle was that the president had approved the annihilation of abolitionism in whatever garb it might appear, and the man who had once voted against the admission of Arkansas into the Union because the state allowed slavery, and who, by the side of Slade, had striven for the abolition of slavery in the District of Columbia, now announced that this position of the president was the only one compatible with personal honor. In this, indeed, he seemed to have only surface honor in mind, for he stated at the same time, that the president had not to sit in judgment on the hearts of people, but only to ask what they professed with their lips.<sup>2</sup> This reprimand introduced a fresh element into

<sup>1</sup> "Caleb, you forgot, when you wrote that silly letter, that the coalitionists in 1850 elected you to be their representative. You forgot that you were strongly in favor of the election of Charles Sumner to the United States senate by coalition votes. You forgot that a coalition governor and a Free-Soil council nominated you for a seat on the supreme bench in 1852." *Ib.*, Nov. 12, 1853.

<sup>2</sup> In "Gen. Caleb Cushing's late order in council, addressed to the Softs of Massachusetts," as the *Tribune* expresses itself, we read: "If there be any purpose more fixed than another in the mind of the president and those with whom he is accustomed to consult, it is that that dangerous element of abolitionism, under whatever guise or form it may present itself, shall be crushed out, so far as this administration is concerned. This the president declared in his inaugural; this he has declared ever since, at all times and in all places, when he had occasion to speak on the subject. While he does not assume to judge of the hearts of men who publicly avow sound principles, he only needs overt acts to show where they are in order that his settled policy in the conduct of the affairs of the government shall be unequivocally manifested."

The *Tribune* remarks: "To 'crush out' what he may esteem 'dan-

the coalition movement, because here as in New York, but with greater reason, people saw in it an unwarranted interference in the affairs of an individual state. Cushing had approved previous coalitions which directly affected the position of the state in federal politics, and now he charged his party with the sacrifice of a fundamental principle because it did not refuse to enter into a coalition in reference to purely state questions, out of consideration for differences of opinion in respect to federal politics.

The coalition was defeated by the Whigs, and from the point of view that the extirpation of abolitionism was the chief task of the administration, it might so far be considered proved that, at least in this case, the coalition was a mistake. But was it not a mistake of the very same kind when the president systematically fondled the apostates who had become reconverted in the eleventh hour, although by so doing he roused the ever-faithful Democratic guard against himself? This question was, indeed, answered by Cushing and his associates with a well-considered smile, not because they were conscious of greater and more devoted fidelity to principle, but because of their deeper insight as political figurers.

The organ of the administration claimed with complete right that the moral indignation of the Hards was totally

gerous elements' of public opinion or personal conviction, is not among the duties of a president of the United States enumerated in the federal constitution; nor can we find anything in the Resolutions of '98, that imposes on him that arduous task. But the broad intimation given by General Cushing that a man's being a Free Soiler at heart is of no moment, so long as he will hypocritically profess to stand on the Baltimore platform, must elicit general reprobation. It is a special rule, made to cover Van Buren, Grover, Stanton, etc., with the mantle of Democratic orthodoxy, while the men who think as they do, and are honest enough to speak and act accordingly, are thrust out of the pale of presidential sunshine." *Ib.*, November 3, 1858.



unfounded, because they alone could never have elected a president.<sup>1</sup> If federal offices were a reward for party services, the Softs might claim a share of them, corresponding to their numerical strength. And then the question readily suggested itself, whether it was not prudent to do a little something more for them, since the decision had lain with them and might easily lie with them again. If the orthodoxy of the Softs had been threadbare in any other question, people would have understood without difficulty, although they would not have universally approved it, that this consideration was thought decisive. In the present case, this view seemed to the Hards not only politically and morally unjustifiable, but they did not even understand it, because they considered it irreconcilable with the pledge of a crusade against abolitionism which had been so loudly proclaimed. And yet the position of Pierce and his advisers on the slavery question excludes all doubt that their attitude, in the question of patronage, towards the different groups of the party was determined by its presumptive consequences in respect to their endeavors to stamp out the abolitionist tendencies.

The thought and feeling of the population of the free states about slavery had not experienced a change in consequence of a sudden enlightenment by the compromise of 1850. Of that, people on both sides were pretty clearly conscious. The error in which they were involved by the

<sup>1</sup> "If the Baltimore platform had expressly approved or disapproved of the compromise, the nominee would have met certain defeat.

"The friends of the measure of adjustment never had sufficient strength to elect a president, and this fact ought to impress itself with force upon the minds of Democrats who claim from the administration more consideration towards the original advocates of the compromise, than they are supposed to have received." *The Washington Union*, Nov. 30, 1853.

finality policy consisted rather in their believing that spite of this the slavery question was set aside even if not solved. The opinion very widely prevailed that the political role of "abolitionist" ideas was at an end.<sup>1</sup> But if they were irrevocably eliminated from politics, there would soon remain only a small crowd of fanatics to whom slavery was not simply an evil like prostitution, the inevitable product of certain circumstances, and concerning which, nothing more could be asked of any man than that he should keep himself clear from all polluting contact with it. And as the view obtained so widely, it could seem easy to confirm many in it and to win over others to it. The deportment of the Softs towards the platform and the candidate of the Baltimore convention encouraged the experiment, to move them, by the reward of office, to have a moral conviction in regard to slavery only as men, but not as Democrats. And what was there to keep them from making the experiment, since those who had been faithful might, indeed, murmur, but would still do their

<sup>1</sup> A distinguished witness from each of the two camps confirm this. Julian says, in a speech of the 25th of May, 1853, in the Free-Soil state convention at Indianapolis: "There are many persons who believe that the anti-slavery movement of this country has perished and passed away. They think it has spent its force, lived out its time, and finally gathered to its place among the defunct humbugs of the world." *Speeches on Political Questions* by G. W. Julian, p. 83.

And the *Richmond Examiner*, of Sept. 20, 1853, writes: "Abolition is no longer rampant and in the ascendant—it is no longer the shortest road to office and distinction—it is no longer a serviceable instrument of public advancement. Abolition is not killed, but it is very effectually scotched; such a hydra can never be killed by a single blow; we still hear its murmurs, we sometimes smell the nauseous stench of its pestilential breath; and witness its spasmodic contortions. But it is maimed, bruised, languishing, and impotent. Its prestige as a weapon of political warfare has vanished for the time; and we think that this result is mainly attributable to the election of General Pierce to the presidency."



duty so long as the policy of the administration harmonized in all other things with the party programme and party interests, for they could not cut their own throats in order to punish the president for preferring the children of the half-blood to those of the whole-blood.

The piebald character, that is the intentional absence of character of the cabinet, and the manner in which the administration managed the government patronage was objected to not alone by the Hards in New York. Robert Toombs accused the president of unfaithfulness, because the real compromise party was not represented in the cabinet.<sup>1</sup> The *Richmond Examiner*, too, could not help declaring that some nominations were simply unbearable,<sup>2</sup> but suggested that the desertion of their flag by the northern Democrats was too general to allow the deserters to be punished just as they deserved.<sup>3</sup> When the Democrats were defeated in the November elections in New York, it did not feel itself called upon to look for excuses or reasons for extenuation. But anger, in this case, did not cloud its judgment. It very rightly said that the greatest sin of the administration was not its favoring of the Whigs; it had committed a greater error by making

<sup>1</sup> "I arraigned Gen. Pierce before the people, for betraying the compromise and its friends, in the face of all his professions, by bringing its enemies into power. To sustain this charge, I reviewed the position of each member of his cabinet, and showed that not one of them were identified with that great measure, and that the fidelity of each of them to it might be justly questioned." To the editor of the *Augusta Chronicle and Sentinel*, Greensborough, Ga., November 2, 1853. Printed in the *New York Tribune* of the 9th of November, 1853.

<sup>2</sup> "It is true that some of the appointments to office under the present administration grate harshly on our feelings, and push our endurance to the wall." The *Richmond Examiner*, Sept. 20, 1853.

<sup>3</sup> "The epidemic had been general."



the quarrels of the fractions in a single state the beginning and the end of its entire policy.<sup>1</sup>

The Hards had, by their own course, forfeited the right to base their complaints about Pierce's behavior on the fact that they alone represented the true national Democracy, in the decisive question of slavery. The assertion that they had to infer what were the principles of the president<sup>2</sup> from his mode of granting office was entirely unjustifiable, since their convention, that is the authoritative exponent of their convictions had endeavored to secure a union with the Softs, on the basis of absolute freedom in respect to the slavery question, because that question was not to be considered a party question, in the future any more than in the past.<sup>3</sup> They had made the motto of the

<sup>1</sup> "The telegraphic news of Tuesday's elections in New York recount a total defeat, both of what is, and what pretends to be, the national Democracy of that empire state. It is doubtless a source of deep mortification to the administration at Washington, that its painful and almost undivided exertions of eight months, have produced such a melancholy harvest of disaster and disappointment. . . . There are those who regard the chief sin of the cabinet in respect of New York politics, to be its taking sides against the true and tried friends of the south. Great as that sin was, it was less than the vicious mistake of making the internal quarrels of a single state the alpha and omega of its thought and policy." *The Richmond Examiner*, Nov. 11, 1853.

<sup>2</sup> Peckham of New York, said in the house of representatives, on the 18th of May, 1854: "So far as the President's patronage is concerned, the friends of New York looked for a confirmation of the Administration, as in fact it was, as the only evidence of its principles." *Congr. Globe*, 1st Sess., 33d Congr., App. p. 876.

<sup>3</sup> The conventions of the two fractions met at the same time in Rome talking about the "Chancellor" H. H. Walworth, chairman of the committee on the part of the Hards, convention, wrote to the committee of the other convention: "There is no doubt that the general sentiment of the friends of the south is the exclusion of slavery from territory now free. And as a matter of fact, it is impossible to draw a limit that a compromise of our sentiments could be considered as a Democratic compromise. We would have made a test of Democracy in any part of the United States. And we are not willing that it should be made

Whigs "to agree to disagree" their own. Pierce had only taken them at their word, and treated them in accordance with their own programme. That the suicidal folly of the resolution to preserve the party intact at any price, although it was irrevocably sundered on the most essential question of national politics, became more quickly and glaringly apparent in consequence of this, was determined by the nature of the case. Pierce hastened the process of the dissolution of the party, by endeavoring to hold it together by the spoils, and the spoils were the only bond which kept all the heterogeneous elements together. The cement corroded instead of binding, because the Democrats, like the Whigs, had rendered the prolongation of their party existence possible only by a fiction and a lie. Long before the unfortunate autumn elections, the *United States Review* had said that the consequences would become more ruinous, the longer the fiction was held up in the face of facts, of facts which spoke louder every day.<sup>1</sup> But even

so here. The Democracy of New York is a part of the national Democratic party, which party can only hope to triumph by preserving its ranks unbroken throughout the entire Union. And this cannot be expected, or even hoped for, if opinions upon the subject of slavery are allowed to be made the matters of party faith, or to form the basis of party organization, either at the north or the south." And in another communication of the same committee, of the same date, we read: "We stated in our communication to your committee, to which we beg leave to refer, that it was impossible to expect anything like unity of views on the subject of slavery among members of the Democratic party—that it had never existed, and was never looked for, and that it was wholly unattainable. We proposed to your committee, as a basis of union, wholly to discard that subject from the platform of Democratic principles, leaving everyone to the enjoyment of his individual views and opinions. We can act with Democrats, whatever their views in regard to slavery may be, if in other respects sound." *Ib.*, p. 75.

<sup>1</sup> "It is both weak and idle to attempt to conceal the fact that there is a marked division in sentiment, upon a most vital national question, between the great body of the Democratic party, and some who claim its membership. It is most conspicuously apparent in this state (New

it did not know how the fiction could be gotten rid of. That the banner of Democratic principles should be boldly unfolded meant nothing, if it did not mean that the Democratic party was to identify itself with the slavocracy. And if the *United States Review* was not very clear on this point itself, yet that is what its advice amounted to, for the demand that the offices should be granted only to those who were undoubtedly faithful, was the virtual expulsion of those who did not willingly follow the every hint of the slavocracy.

York), especially in every party movement, in or out of the legislature, and cannot be concealed or successfully glossed over, to suit any interest however necessitous, or emergency however imperative. The breach is every day growing wider, and it is the duty of all true friends of the party to look the embarrassment fully in the face, and aid in applying the remedy before remedies will be unavailing. Those who proclaim that there is no division, and yet in every word and act recognize sections, more or less in conflict in sentiment, furnish the best refutation to their own assertions. If there are no sections, there are none to recognize, reward, or encourage, but one harmonious centre; and no discordant notes will be heard, if none but those uniformly faithful are the recipients of party favor. If there are sections divided in opinion upon principles which lie at the foundation of our federative system, both cannot be right, and should therefore not be encouraged, unless sections are to be perpetual. And every effort to mould them into one, to say nothing of its absurd injustice, must be as endless and unsuccessful as the labors of Sisyphus. Truth and error are as variant in politics as in morals, and every reward bestowed upon the latter increases its insolent exactions, encourages it to persevere in its delusions, and swells the number of its votaries.

"It requires no prophetic vision to discover that the interests of the Democratic party are seriously imperilled; that unscrupulous place-hunters and acknowledged recreants, while repudiating its sentiments, are seeking to foist themselves upon it, that they may gorge themselves with spoil and fritter away its principles by the parrot cry of Union. Let no true friend of Democracy be deceived. If the father of evil had been permitted to devise a scheme for the disruption and overthrow of the Democratic party, he could not have executed his mission more successfully, than to place in its bosom discordant and hostile sentiments and christen it a 'union.'" *U. S. Review*, July, 1853, pp. 88, 89.



Thus did they move about in a vicious circle. The disrupted party had been bound together again externally by the finality vow; the spoils which were completely to fill up the cracks only served to extend them, and the realization of perpetual peace began with a quarrel among the victorious knights of peace, to which an end was to be put by the proscription of those who had made the finality vow the limit of their devotion to the slave-holding interest.

The old experience was confirmed anew, that nothing which had any relation whatever to the slavery question could be touched, without provoking quarrels which had a logical tendency as they developed to make the whole question the order of the day. But what political question of general importance was there that had not some connection with the slavery question? And how could it have been ignored when the politicians were ever ready to draw into this field even their quarrels which they carried on about things entirely different, in order to whet their weapons all the more sharply? That this had happened in the case before us, could be proved by the testimony of the parties themselves. The Albany *Argus*, the organ of the Hards in New York, claimed that the administration had sought the struggle, inasmuch as it let the Washington *Union* open a campaign of calumny against Dickinson, because the rancorous jealousy and unsatisfied ambition of the wretched secretary of state had demanded it.<sup>1</sup> And the Washington *Sentinel* said without being

<sup>1</sup> "The war of the administration upon the national Democracy of New York was commenced through the columns of the *Union*, by attacks upon the personal and political character of the statesman who stands first in the affections of the Democrats of this state, and who, through all political phases, in defeat as in success, has never swerved from the boldest vindication of their principles—Daniel S. Dickinson. . . . The Democrats of this state, have been at no loss to discover whence this persecution of Democrats has originated. They have not

contradicted, that the bestowal of office on the Softs had excited so much anger only because it was feared that Marcy by that means would completely take the wind out of Dickinson's sails.<sup>1</sup> The origin of the struggle lay, therefore, in personal rivalries, which were really of importance only to the professional politicians of New York, and yet it had assumed, in the course of a few months, a character which made it the dangerous incentive to bringing the slavery question up again, and causing it to enter on the last phase of its development.

Pierce and his advisers seem to have overlooked one thing entirely. That the Hards, no matter how great their acrimony might be, would remain as true and devoted to the party as they had been before, was undoubted; but, whether, and to what extent, they would be ready to identify the president and his cabinet with the party was a

failed to trace it directly, from its inception to its deplorable fulfillment, to the envious malice and unsated ambition of the ingrate who fills the highest seat among the counselors of the president. They knew that he had friends to reward and enemies to punish, when first his ominous name fell upon their incredulous ears, as the chosen leader of an administration from which they had not at least anticipated this misfortune. And in the insane and desperate crusade which has since been preached against every leading man to whom he was known to bear that hatred for favors received—which a base mind always cherishes against benefactors—they have recognized his guiding hand throughout. (Congr. Globe, 1st Sess., 33d Congr., App., p. 130.)

Whether a statesman should have seen it or not, one thing is certain: the moment that his counsel told Governor Marcy for a member of his cabinet instead of Mr. Dickinson, the fate of the Democratic union in this state, and that of the administration itself, was sealed. Not only the secret was made public, but the president to give, or that the latter has given more than to the Free Soil section of the party. It is not only that Mr. Dickinson might have advised the president to give more than to the Free Soil section of the party, but that he might have advised the president to give more than to the Free Soil section of the party. It is not only that Mr. Dickinson might have advised the president to give more than to the Free Soil section of the party, but that he might have advised the president to give more than to the Free Soil section of the party. (The Washington Post, Dec. 18, 1853.)

very different question. Why might not Pierce fare with the Democrats like Tyler with the Whigs? Cutting, one of the Hards in congress, subsequently launched the accusation against him, in the house of representatives, that he had formed the scandalous coalition, in order to build up for himself a personal party, by which he hoped to effect his re-election.<sup>1</sup> That was presumably a great exaggeration, but it certainly was not improbable that Pierce and his advisers might have been influenced in the position they had taken towards the faction quarrel in New York, by considerations of an entirely personal nature. Certain it was that the Hards were honestly and firmly convinced that their postponement was to be ascribed to such motives, and hence they thought they were only paying like with like, when, regardless of consequences, they opened a personal campaign against Pierce, and especially against Marcy. The Albany *Argus* announced that the genuine Democracy of New York would give up the defensive for the offensive, and claimed that the party everywhere was preparing to follow their example. Since the sword had been forced into their hands, they would not put it back into the scabbard.<sup>2</sup> The powerful majority which had sent the president to the White House was broken up

<sup>1</sup> "Can I call it anything less than a clear and palpable coalition of opposite extremes, and cemented by nothing but the hope of present reward, and the absurd hope that they can form of this coalition an administration party—a Pierce party—to renominate the present executive, and to keep him and his friends in office?" *Congr. Globe*, 1st Sess., 33d Congr., App., p. 74.

<sup>2</sup> "If the president will not be disabused, the people shall, and the national and state rights Democracy will see to it. Hitherto they have stood on the defensive. They have endured in patience, and almost in silence. Henceforth they assume the opposite attitude. They constitute a numerous, organized, enthusiastic and daily increasing party. They stand in their principles by the side of the Democracy of the nation. They are the Democracy of New York. They have disavowed and repudi-



into hostile factions, from one end of the Union to the other.<sup>1</sup>

Peckham was subsequently satisfied with the milder assertion that the administration had forfeited the support of all parties in New York.<sup>2</sup> Even that, considering the great weight of the state, would have been enough to make it appear that the administration was not on a bed of roses. But, unquestionably as the picture which the *Argus* had drawn of the situation was painted not in the dark colors which things bore, but in those which lay in the angry eyes of the Hards of New York, there was enough truth in it to alarm the whole party. If the feud was essentially a selfish and dirty war of rival politicians, covered in great part by the imposing drapery of differences of principle, still a struggle carried on so violently by a respectable fraction of the party against the federal executive, could not but help shaking the power of the party. Spite, therefore, of the great majority which they had in both houses

and 'corrupting and entangling alliances' with Free-Soilism, now and forever.

"The Washington Union and its Free-Soil copyists, may as well take notice of all this. The work of these wretches is accomplished. Not only some of the highest-toned Democrats in the country have been forced into this attitude, but the mass of them in every state, from Maine to California, are fast assuming the same position. *It is no longer a matter of principle with these people.* Having been forced to do so, the national Democracy will take care that it be not shared shamefully." (Ibid. p. 109)

"And thus it has gone on, with the assent of the cabinet, until the Democratic party has been rent in twain in every state of the Union; and there remains of the numerous and influential states which rejoiced in the election of Franklin Pierce, nothing but jarring factions and dissident parties." (Ibid.)

"The same deep policy and far-seeing sagacity that formed this plan, were a great deal more than sufficient to govern the Government in New York, where the administration has fully succeeded in freeing itself from the support of all parties." (Ibid. p. 109)

of congress, the first session of the new presidential term began under by no means happy auspices for the Democrats. They had the power to do whatever they pleased, and yet the question imperatively forced itself upon them, how the danger that that power might not slip through their fingers as it had slipped through the fingers of the Whigs during Tyler's administration, might be averted.

## CHAPTER VI.

## THE KANSAS-NEBRASKA BILL. ITS ORIGIN AND DEVELOPMENT.

Pierce's first annual message (Dec. 5, 1853), was, on the whole, a sober, business-like document, which showed a satisfactory prospect for the future. There was, indeed, no lack of differences of every kind with other powers. Austria was in very bad humor over the Koszta affair.<sup>1</sup>

<sup>1</sup> There is no reason why we should enter here into a minute examination of this interesting international and constitutional episode. Martin Koszta, a Hungarian patriot, who was forbidden to return to his native country under the penalty of death, had, in the manner prescribed by law, declared his intention to become a citizen of the United States. While on a business tour, he was seized at Smyrna, and taken on board an Austrian man-of-war that lay in the harbor. As the efforts of the consul and of the American ambassador in Constantinople, to obtain his liberation were fruitless, Captain Ingraham, who had, in the meantime, come to Smyrna with the war boat *St. Louis*, took the affair in hand. He declared that he would take Koszta by force if he were not voluntarily given up, within a certain time. Thereupon the Austrians agreed to deliver him to the French consul, and to leave the rest to the governments of the two countries. A claim made by Austria was unconditionally rejected by Marcy in a long note; congress voted Ingraham a sword of honor for his energetic action, and the whole people loudly rejoiced at the lesson which had been given to European "despots." Young America had given the first practical proof that the proud and often provoking announcements which it had sent over the ocean in recent years, were not idle words. All this is very intelligible, but the Americans by no means had international law as undoubtedly on their side as they for the greater part suppose, even to-day, and there are many things in their own history not entirely in harmony with the principles which they set up in the Koszta affair. The question is permissible, too, whether both Ingraham and the president would not have proceeded more gently if they had had to do with England instead of Austria.



The harping with Spain increased constantly, because the latter could not be moved to allow direct negotiations between the American consul in Havana and the captain-general of Cuba; with Mexico, boundary controversies had to be settled, and with England an understanding as to the interpretation of the fishery treaty of 1818, had to be reached. But although all these questions might lead to much vexation, they gave no occasion for alarm. Congress was able to give its undivided attention to the tasks of domestic policy which, like the building of a railroad to the Pacific Ocean and the Homestead Law, were preponderantly of an economic nature. Although the Democrats had a majority of 13 in the senate and of 84 in the house of representatives,<sup>1</sup> it was very doubtful whether these two principal questions which had been part of the order of the day for years, would now be brought to a decision, as they were not party questions. But there seemed to be all the more reason to think that the session would have a peaceful course, on this account. Long and lively debates were to be expected, but there was no occasion to poison them with the spirit of party. If the Hards and Softs of New York were prevented from dragging their quarrel into these matters, the very apparent craving of the people for rest might be fully satisfied. The president expressed his confidence that this would be the case, and emphatically promised that he would oppose a renewal of the struggle over the slavery question, by all the means at his disposal.<sup>2</sup> This promise, which certainly was

<sup>1</sup>Senate: 35 Democrats, 122 Whigs, 5 vacancies; house: 159 Democrats, 71 Whigs, 4 Free-Soilers.

<sup>2</sup>He said in relation to the compromise: "But notwithstanding differences of opinion and sentiment which then existed in relation to details and specific provisions, the acquiescence of distinguished citizens, whose devotion to the Union can never be doubted, has given renewed vigor to our institutions, and restored a sense of repose and

honestly meant, was received with great approval, and no one suspected that simultaneously with it, the question was brought before congress which was destined to raise a storm the like of which had never before swept over the country.

On the first day of the session (December 5), Dodge, of Iowa, informed the senate that he intended to introduce a bill for the organization of the territory of Nebraska; the two first readings of the bill took place on the 14th of December, and it was referred to the committee on territories. The bill which proposed to organize the entire tract of country west of Missouri and Iowa as far as Utah and Oregon into a territory, under the name of Nebraska, was no novelty, and differed in no essential point from previous territorial bills. As early as 1844, the question had occupied the attention of congress; it occupied it again in 1845, 1848 and 1853, and from the first it was Douglas who had managed the matter with the impatient energy peculiar to him. His efforts had been almost successful in the last session. On the 2nd of February, 1853, Richardson, of Illinois, had introduced the bill, in the name of the committee on territories, into the house of representatives, and on the 10th of February, it was adopted by a vote of 98 to 43; 17 southern representatives had voted with the majority, and both the majority and the minority were made up of men belonging to both parties. The only weighty objection made by the opposition was the alleged violation of the stipulated rights of the Indians. On the 17th of February, the bill was recommended by Douglas, the chairman of the committee on territories, without

security to the public mind throughout the confederacy. That this repose is to suffer no shock during my official term, if I have power to avert it, those who placed me here may be assured." *Statesman's Manual*, III., p. 2038.



amendment, to the senate for adoption. As the end of the session was near at hand, he declined going into an exhaustive defence of the bill, but thought that considering his efforts during eight years and the numerical proportion in the vote of the house, a discussion might be dispensed with, but that the matter should not be left unsettled for the next congress to deal with. His wishes were not complied with, and here, too, the opposition assigned as the reason of their action the fact, that the rights of the Indians were violated by the bill. The bill was laid on the table by a vote of 23 against 17, and the vote was far from being a party vote.

Douglas's chagrin was great, but the majority of the members of congress attached no special importance to the affair, and outside of congress, it was scarcely known that the matter had been discussed at all. So small was the interest taken in it, that two episodes passed entirely unnoticed which were subsequently very uncomfortable to the south and its partisans, because they had been, without any object whatever, brought about by two men from their own midst.

Only to provoke a laugh, at the expense of Giddings who was a member of the committee on territories, John W. Howe, of Pennsylvania, asked him whether the ordinance of 1787 had not been adopted in the bill, because the committee had allowed itself to be intimidated by the platform of 1852. Giddings quietly answered that the southern boundary of the territory lay north of thirty-six degrees, thirty minutes, and was, therefore, protected forever against slavery by the Missouri compromise; its perpetual prohibition could acquire no greater force by a renewal of it.<sup>1</sup> To the further question, whether a later

<sup>1</sup> "This law stands perpetually, and I did not think that this act would receive any increased validity by a re-enactment. There I leave



compromise was not known to him, he answered, that that had nothing to do with this question. The laughter provoked by Howe's first question was silenced, and no one had a word to oppose to Giddings's replies.

In the senate, Douglas had not touched the slavery question, and the bill in no way mentioned it. But Atchison, of Missouri, had spoken of it. He frankly stated that he had formerly opposed the bill, because the Missouri compromise, spite of its unconstitutionality, would be brought into operation in the territory, but that he would now give up his opposition, recognizing as he did, that it would be as impossible to carry the repeal of the unjust and unconstitutional law, in ten years as it was now.<sup>2</sup>

the matter. It is very clear that the territory included in that treaty must be forever free, unless the law be repealed." *Congr. Globe*, 2d Sess., 32d Congr., p. 543.

<sup>2</sup> "Another objection was the Missouri compromise, or, as it is commonly called, the slavery restriction. It was my opinion at that time—and I am not now very clear on that subject—that the law of congress, when the state of Missouri was admitted into the Union, excluding slavery from the territory of Louisiana north of 36° 30', would be enforced in that territory unless it was specially rescinded; and, whether that law was in accordance with the constitution of the United States or not, it would do its work, and that work would be to preclude slaveholders from going into that territory. But when I came to look into that question, I found that there was no prospect, no hope of a repeal of the Missouri compromise, excluding slavery from that territory. Now, sir, I am free to admit that at this moment, at this hour, and for all time to come, I should oppose the organization or the settlement of that territory unless my constituents and the constituents of the whole south of the slave states of the Union, could go into it upon the same footing, with equal rights and equal privileges, carrying that species of property with them as other people of this Union. Yes, sir, I acknowledge that that would have grieved me, but I have no hope that the restriction will ever be repealed.

I have always been of opinion that the first great error committed by the politicians of this country was the ordinance of 1787, rendering the new west territory free territory. The next great

These utterances were not noticed at the time. The claim that the Missouri compromise was unconstitutional had frequently been heard, and that its repeal was simply impossible was doubted least of all in the north. If any attention at all had been paid to Atchison's statement in that quarter, people would at most have wondered that a politician of any note had ingenuously confessed he had taken the question into serious consideration. Hence, too, no attention was paid to the fact that some months later the formal announcement was, with this same Atchison's co-operation, made to the whole country, that what he had just characterized as impossible, should now be attempted in bitter earnestness. A meeting in Platte county, Missouri, which was inspired by Atchison, and at which he delivered a speech, resolved to promote the propagation of slavery with their property and their blood, in the territory, as soon as it was opened for settlement.<sup>1</sup> And yet the announcement unquestionably deserved the greatest

error was the Missouri compromise. But they are both irremediable. There is no remedy for them. We must submit to them. I am prepared to do it. It is evident that the Missouri compromise cannot be repealed. So far as that question is concerned, we might as well agree to the admission of this territory now as next year, or five or ten years hence." *Ib.*, p. 1113.

<sup>1</sup> "Resolved, that if the territory shall be opened to settlement, we pledge ourselves to each other to extend the institutions of Missouri over the territory, at whatever sacrifice of blood or treasure." *The Independent*, September 25, 1856, p. 305. (*The Independent* says that the meeting took place "in the latter part of 1853, almost a year before the passage of the Nebraska bill.") Immediately thereupon began the formation of the Blue Lodges, whose task it was to fulfill this vow. Spite of this we read, subsequently, in the report of a committee of the house of representatives: "The testimony clearly shows that before the proposition to repeal the Missouri compromise was introduced into congress, the people of western Missouri appeared indifferent to the prohibition of slavery in the territory, and neither asked nor desired its repeal." *Rep. of Comm., House of Repr., 34th Congr., 1st Sess., Vol. II., No. 200, Rep. of the Majority, p. 2.*

attention, for the people who had thus cast the gauntlet into the face of the north and trampled the "finality" of the compromise of 1850 under their feet did not act in accordance with the motto, *fiat justitia ruat coelum*, and were not concerned with the interests of slavery in general, but were girding their loins for the struggle for their own existence as slaveholders.

In the six western border counties of Missouri—Platte, Clay, Ray, Jackson, Lafayette and Saline, of which the three lying north of the Missouri belonged to the territory which by the law of the 7th of June, 1836, had been added to the state in violation of the Missouri compromise—there was, according to the census of 1850, a white population of 56,726 and a slave population of 17,357, with a value, according to the *New York Tribune*, of at least ten million dollars.<sup>1</sup> The land on the right bank of the Missouri was greatly blessed by nature, but its rich soil had never yet been torn up by the plough. Protected in the west by a wilderness and in the east by a country in which slavery had a legal existence, the slave holders of the counties named had enjoyed great security, and to this security it was in great measure to be ascribed that slavery had here taken deeper root than in many other not less fertile parts of the state. If now, the Indian and the trapper had to make way for the farmer who was to convert the wilderness into a blooming and relatively populous country, in a few years, not by slaves, but with his own hands, all this would be immediately and completely changed. The day on which the Indian hunting grounds about the head waters of the Arkansas and the Kansas river were organized as a free territory, slaves in western Missouri would become the worst investment of cap-

<sup>1</sup> The *New York Tribune*, January 19, 1855.



ital that could be made. When slave labor came in direct competition with free labor, where the latter was not hampered in any way in the full development of its energy by social circumstances and public opinion, free labor would make its enormous superiority felt in the most marked manner. Western Missouri would then soon fall into the miserable hybrid situation, as to its economic and social structure and therefore also as to its political dispositions and tendencies in which all the border territory of slavery was to be found. And not only the interest on the capital invested in slaves would soon perceptibly decrease, but the slaveholders would be constantly haunted by the fear that the ineradicable instinct of liberty would deprive them of their capital, since only a stream divided the land of freedom and the land of slavery from one another.

The slaveholders had one means at their command to escape these annoyances and dangers, and in their need they afterwards had recourse to it: they could sell the slaves into the plantation states or emigrate with them to a region better adapted to the economic system of the peculiar institution and with greater security for it. But they felt themselves too powerful to vacate the field without any more ado. Of course the owners of 17,000 slaves would never have ventured to make an attack upon the Missouri compromise, if the rest of the south were honestly and irrevocably resolved to be satisfied with what it had received in the compromise of 1850. But this was unquestionably not the case. The great majority of the population of the southern states were certainly very far removed from having become guilty of a conscious deception by the finality programme, but still they had made the compact of 1850, only because it was the best they could obtain under the circumstances, and because they

believed the slave-holding interest sufficiently secured by it. But the moment that the settlement of the wild country between the Missouri and the Rocky Mountains was to begin, the slavocracy opened their eyes to the fact that it was an absolute necessity for them to summon all their strength to wrestle for this wilderness as well as for the territory acquired from Mexico. It was, indeed, not hard to prove that the interests of the slavocracy, in the aggregate, were much more seriously imperilled than those of the slaveholders in the western border counties of Missouri, if the country tributary to the upper Arkansas and the Kansas were to become the domain of free labor.

We have seen that the development of things in Missouri had already given the slavocracy occasion for serious reflection. Bounded on the east by free Illinois, on the north by free Iowa, its slave population so dense only in some parts of the state that the slaveholders alone were the controlling element, while in others they constituted, in number and importance, so insignificant a factor that their political supremacy had no foundation because it was lacking a material basis—must not the state have been irredeemably lost, at no distant day, if its western boundary was to become the boundary of slavery likewise and if it were to be almost entirely hedged in by a domain in which free labor reigned supreme?<sup>1</sup> The slavocracy would have had to be as thoughtless of, and trustful in, the future as they were really alert and mistrustful, if

<sup>1</sup> "I will not now detail my reasons, but I have strong faith that Kansas will become a slave state. We owe it to Missouri to give Kansas a chance. Missouri is now bounded by free states on two sides. If Kansas becomes a free state, bounding her on a third side, it will be difficult for Missouri to prevent her negroes being decoyed off by abolitionists. Will her appeal be disregarded by southern men? I trust not." Zollicoffer in the house of representatives, May 9, 1854. Congr., Globe, 1st Sess., 33d Congr., App., p. 536.

they had ignored this, after the opposition in the state had ventured, years before, to claim that the transformation of Missouri into a free state was only a question of time, since it depended entirely upon the actual development of circumstances which were entirely independent of the thought, feeling or will of individuals. And if this actual development had gone only so far that the political supremacy of the slavocracy was broken in the state, would not, nay must not, the evil advance further and give a powerful impulse in the same direction where the first germs of the same development had appeared independently? Were Arkansas, Tennessee and Kentucky so completely governed in their social and political structure by the peculiar institution, that all solicitude in regard to it was only an idle pretext? And would not the hopes which the south had, even after the compromise of 1850, set upon the territory lately acquired from Mexico, be completely destroyed by the loss of Missouri?<sup>1</sup> Whoever wishes to understand the slavery question must above all things become clear that the aggressive policy of the slavocracy, which had no regard for consequences, was not to be ascribed to its insatiable greed for power, but that it had always to demand more in order to be able to retain what it had already acquired. And now, too, the only question was whether the leading politicians would recognize this before the prospective prohibition of slavery which the

<sup>1</sup>Atchison wrote on the 12th of September, 1855: "If Kansas is abolitionized, Missouri ceases to be a slave state, New Mexico becomes a free state, California remains a free state; but if we secure Kansas as a slave state, Missouri is secure; New Mexico and Southern California, if not all of it, becomes a slave state, in a word, the prosperity or the ruin of the whole south depends on the Kansas struggle." *N. Y. Tribune*, Nov. 2, 1855. The fears in respect to the three other states named in the text were also repeatedly expressed in congress, but I have unfortunately neglected to note the places.



Missouri compromise gave expression to, became an accomplished fact by the organization of the territory.

The Nebraska bill introduced by Dodge was a literally faithful copy of the bill adopted in the house, in the last session, and, therefore, contained nothing about slavery. After the previous efforts of Douglas for the organization of the territory, it was to be expected that the territorial committee would leave the bill referred to it for a report, unaltered in this respect. That expectation, however, was not realized. The bill, accompanied by a written report, was again laid before the senate, on the 4th of January, 1854, by Douglas, in an altered form. The bill appeared in print, for the first time, in the *Washington Sentinel* of the 7th of January. It contained twenty sections, and had adopted from the laws on the organization of the territories of Utah and New Mexico, the provisions according to which, when the territory (or any part thereof) was admitted as a state, its admission into the Union should take place regardless of whether slavery was permitted or prohibited by the state constitution. The report entered more into detail on the slavery question.<sup>1</sup> It started out by saying that it was a debatable question, whether slavery was forbidden in Nebraska by a valid law, and stated that the committee did not feel itself called upon to enter into the examination of that question; it involved the same points of controversy as the terrible struggle of 1850, and hence the committee, following the example then given by congress, had taken no position in any way, on the restriction provision of the Missouri compromise and on the question of the correct constitutional doctrine.<sup>2</sup>

<sup>1</sup> Sen. Rep. 33rd Cong., 1st Sess., Vol. I, No. 13.

<sup>2</sup> Under the section on the restrictive provision of the Missouri compromise, as in the case of the Mexican law in New Mexico and

Truth and falsehood were mixed here with great skill. It was true, first, that, in the struggles of 1850, the unconstitutionality of the Missouri compromise was asserted by a fraction of the slavocracy; second, that the same people had claimed that, "under the constitution," the slaveholders had the right to go with their slave property into every territory of the United States; third, that congress had intentionally not expressed itself as to whether slavery was allowed or prohibited in Utah and New Mexico. The first assertion was a direct consequence of the second, and this was as applicable to Nebraska as to Utah and New Mexico. But it by no means followed from this that the committee on territories really only followed the example set by congress in 1850, when it wished to look upon the question of the legal status of slavery, in Nebraska, as an open one, in the same sense as congress had then done by its silence in respect to Utah's and New Mexico's. The Missouri compromise spoke only of the then territorial possessions of the United States. Hence, no legal relation, in respect to the domain acquired from

Utah, it is a disputed point whether slavery is prohibited in the Nebraska country by valid enactment. The decision of this question involves the constitutional power of congress to pass laws prescribing and regulating the domestic institutions of the various territories of the Union. . . . Your committee do not feel themselves called upon to enter into the discussion of these controverted questions. They involve the same grave issues which produced the agitation, the sectional strife, and the fearful struggle of 1850. Congress deemed it wise and prudent to refrain from deciding the matters in controversy then, either by affirming or repealing the Mexican laws, or by an act declaratory of the true intent of the constitution and the extent of the protection afforded by it to slave property in the territories; so your committee are not prepared now to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the eighth section of the Missouri act, or by any act declaratory of the meaning of the constitution in respect to the legal points in dispute."

Mexico, could be created by that compromise; only the fundamental thought in it and its spirit should be appealed to, if it was to be drawn into this controversy as an argument of any importance. The question of law here was: Do the Mexican laws by which slavery was once abolished and prohibited in these domains still subsist as laws, or have those laws, by the transfer of these domains to the possession of the United States, *eo ipso* fallen into desuetude, because they are in conflict with the constitutional rights of the slaveholders and therefore unconstitutional? Congress had left this question unanswered, that is it had resolved to leave the existing law in force, but cast the onus and the responsibility of declaring what the existing law was on the courts, when the question was brought before them, in the form of a legal controversy.<sup>1</sup> When, on the contrary, congress, now, in accordance with the demand of the committee on territories, characterized whether slavery was prohibited in Nebraska as an open question, it not only left it to the courts to decide what the law was, but it declared, that it would take no position or could take no position on the assertion of certain individuals, that the law of the land was not law. The Missouri compromise applied to Nebraska, and the Missouri compromise was a law which had come into existence in a constitutional way. So long as it had not been repealed by congress nor declared unconstitutional by the supreme court of the United States, it had, therefore, to be recognized, by all individual citizens, and, of course, much more, by the legislative body, as having all the force of law. It is evident that every member of the legislative body, as well as every individual citizen.

<sup>1</sup> Hence, Douglas himself had said in Chicago: "Neither party has gained or lost anything, so far as the question of slavery is concerned." Congr. Globe, 1st Sess., 33rd Congr., App., p. 174.



right to question the constitutionality of the law, or it was only to give expression to his own personal conviction or to secure a remedy by the competent authorities; but it was a monstrosity and an absurdity for the legislative power as such to declare: we do not recognize the law which has come into existence in a constitutional way and which has been in actual force for over a century, but we at the same time expressly affirm, that we do not, in principle, entirely undecided, whether it is valid and void, because of its alleged conflict with the fundamental law of the state. But if the constitutional history of the United States was to be soiled by this monstrosity and absurdity, the guilt of it had to be laid on the thirty-third congress alone. The thirty-first congress, which had truly enough to answer for already, had no share in it. It had not only not decided the question raised by the slavocracy of the constitutionality of the Missouri compromise in the sense of the slavocracy, but it had expressly affirmed it anew,<sup>1</sup> inasmuch as it did, in a clause of the fifth section of the law of

the state of Pennsylvania said in the senate: "I am made to say (by the newspapers) that the Missouri compromise was frequently the subject of conversation among the members of the committee of the senate charged with reporting to the senate the project of a settlement of the territory. I do not think that it was conceded by all of them that the Missouri compromise was in no way affected by their action. This statement is incorrect. In the various discussions which took place in the committee, I do not remember that the Missouri compromise was ever brought up, but once. On that occasion, Messrs. Clay, Mangum, and Mr. Bright, and myself, were present. In discussing some of the bills, or, it may have been, of the report, I suggested to Mr. Clay that it might possibly be regarded as in conflict with the Missouri compromise. Raising both hands, as many here remember he was in the habit of doing when about to express his opinion with emphasis, he replied: 'My dear sir, the proposed bill (by the said bills) recognizes that compromise.' " Cong. 31st Sess., 33d Congr., App., p. 505.

September 9, 1850, on the boundaries of Texas and the organization of New Mexico, that the 3rd article of the second section of the annexation resolutions of the 1st of March, remained in force.<sup>1</sup>

Douglas was a thinker too well schooled in constitutional law to allow the assumption to appear permissible, that he had considered the course advocated by the committee on territories as really identical with that observed towards Utah and New Mexico. And it was all the more improbable that he had overlooked their essential difference, in good faith, because, in another place of his report, he introduced a principle into the compromise of 1850, for which the most sophistical of sophists could not find the slightest word, as a positive basis, in the compromise laws. The compromise, said the report, laid down the principle, that all questions, relating to slavery in the territories, were to be decided by the inhabitants of them, by their representatives chosen for that purpose.<sup>2</sup> The sentence contained as many untruths as it did words, and they were all palpably plain. This claim was, indeed, made in the

<sup>1</sup> "Provided that nothing herein contained shall be construed to impair or qualify anything contained in the third article of the second section of the 'joint resolution for annexing Texas to the United States,' approved March first, eighteen hundred and forty-five, either as regards the number of states that may hereafter be formed out of the state of Texas, or otherwise." Stat. at L., IX., p. 447.

The passage of the annexation resolutions which comes into consideration reads: "And in such state or states as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude, (except for crime), shall be prohibited." Stat. at L., V., p. 798.

<sup>2</sup> "It is apparent that the compromise measures of 1850 affirm and rest upon the following propositions—First: That all questions pertaining to slavery in the territories, and in the new states to be formed therefrom, are to be left to the decision of the people residing therein, by their appropriate representatives, to be chosen by them for that purpose."

debates of 1850, and exhaustively discussed *pro* and *con*, but congress had taken no stand in relation to it, in the compromise laws. Besides none of them said anything of the territories in general. They had to speak only of two definite territories, Utah and New Mexico, and whatever might have been determined for them in relation to slavery, it was in no case justifiable that it should, without any more ado, be declared decisive for all other territories.<sup>1</sup> The history of the United States had, hitherto, known as little as the history of the legislation of any other nation, of the senseless maxim, that the legislator must have intended to lay down as a universally applicable principle what he had provided for a special case. And, in this instance, it was all the less justifiable to interpret it into a general law, there being no reason therefor in the law itself, because, as has been said, in the question of the legal status of slavery, in Utah and New Mexico, elements entirely different from those in all the other territories of the United States had to be considered. In consequence of these special elements, the struggle of parties ended in this, that congress was entirely silent as to what was or should be the law in these two territories, in respect to slavery and as to whether it or anyone else, had any power to settle that question. The laws said nothing about slavery, except that congress, in the admission of Utah and New Mexico, as states, should remain neutral, that is be entirely passive.<sup>2</sup> Congress had, therefore, divested itself

<sup>1</sup> Webster had said on the 17th of July, 1850: "They (the free states) lose the application of the Wilmot Proviso to these territories, and that is all. . . . What they sacrifice is this: the application of the Wilmot Proviso to the territories of New Mexico and Utah; and that is all." Webster's Works, V., p. 421.

<sup>2</sup> Douglas himself had said in a speech delivered in Chicago, on the 23d of October, 1850: "The bills establishing territorial governments for Utah and New Mexico are silent upon the subject of slavery, ex-



of the performance of all its duties in respect to slavery, if any such it had under the constitution, partly by its silence and partly expressly; yet it had transferred them to no one. But since the territories, as political communities, were simply creatures of congress, the population of the territories could, under the constitution, have only the rights which had been granted them by federal laws; if they had still others, the sources of them must have been outside of the constitution. Hence the only legal consequence of the silence of congress on slavery, for the territorial period of Utah and New Mexico, was that the court, the case being given, would have to decide what was the legal status of slavery under the laws of Mexico and the constitution, and that no one could touch this legal status until the territories had been transformed into states. The assertion that the compromise laws had considered the territories, in this respect, as a *terra nullius*, or, as soon said, as a *tabula rasa*, and that they had recognized the right of the territorial population to act according to their sovereign good pleasure through representatives elected *ad hoc*, was entirely baseless. And the representation of this view of individuals as a legally fixed and universally applicable principle, must have appeared a conscious falsification of facts because Douglas and the other members of the committee on territories could not have forgotten, that a part of the majority who had brought about the compromise laws, that is, the Calhoun

cept the provision that, when they should be admitted into the Union as states, each should decide the question of slavery for itself. This latter provision was not incorporated in my original bills, for the reason that I conceived it to involve a principle so clearly deducible from the constitution that it was unnecessary to embody it in the form of legal enactment. But when it was offered as an amendment to the bills I cheerfully voted for it, lest its rejection should be deemed a denial of the principle asserted in it."

wing of the slavocracy had emphatically guarded against the right claimed for the territorial population.

Douglas's assertion, therefore, was not only a bold invention, but it contradicted the declarations and utterances of the report already referred to. If the fact that congress announced that it desired to abstain from expressing any opinion or any will on the restriction of the Missouri compromise, in respect to the new territory, could have any legal consequence, it could only be that the actual legal status of slavery should continue here too, and that it was left to the courts to decide what that actual legal status was, under the purchase treaty, on Louisiana territory. But, if, on the other hand, the compromise of 1850 had laid down the principle of squatter sovereignty for all territories, such a judicial decision would have only an academic interest, for the population of the territory might change that status as they pleased. Congress had, therefore not really observed the absolute passivity and neutrality announced, but it had actually, by the proclamation of squatter sovereignty, set aside the existing legal condition of things, whatever it might be, and put in its place, a *tabula rasa*, on which the territorial population might do as it pleased.

What did the committee on territories propose? Was congress, by abstaining from expressing its own will and opinion, to require the courts to decide whether the slaveholders for thirty-four years, or rather, by the confirming anew of the ordinance of 1787, since the adoption of the constitution, had been robbed, by the legislative power, of a constitutional right of vital importance; or, was congress, after all factors of the federal government, since the adoption of the constitution, had looked upon and treated the population of the territories as minors with no political rights of their own, to lay down as legal doctrine,

that this universally applicable constitutional principle should be applied only to the slavery question, and that, in respect to it, the territories alone, like the states, had jurisdiction? The bill as it had been printed in the *Sentinel* of the 7th of January, gave no answer to this question. But on the 10th of January, it appeared again in the same paper with twenty-one sections instead of the previous twenty. The added twenty-first section declared squatter sovereignty established by the compromise of 1850, amplifying the previously cited clause of the report to the effect, that all questions pertaining to slavery should be decided not by representatives of the territorial population chosen *ad hoc*, but simply by the representatives. Besides it devolved all legal controversies in respect to property in slaves and to personal freedom, on the territorial courts, with the right of appeal to the supreme court of the United States, and extended the Fugitive Slave Law to the territory.<sup>1</sup> This surprising metamorphosis of the bill was explained by the claim that the

<sup>1</sup> "Sect. 21. And be it further enacted, That in order to avoid all misconstruction, it is hereby declared to be the true intent and meaning of this act, so far as the question of slavery is concerned, to carry into practical operation the following propositions and principles, established by the compromise measures of one thousand eight hundred and fifty, to wit:

"First. That all questions pertaining to slavery in the territories, and in the new states to be formed therefrom, are to be left to the decision of the people residing therein, through their appropriate representatives.

"Second. That 'all cases involving title to slaves,' and 'questions of personal freedom,' are referred to the adjudication of the local tribunals, with the right of appeal to the supreme court of the United States.

"Third. That the provisions of the constitution and laws of the United States, in respect to fugitives from service, are to be carried into faithful execution in all the 'organized territories' the same as in the states."



copyist had forgotten the 21st section. It was certainly not easy to believe this assertion, for that the saying, Hamlet with Hamlet left out, should be literally fulfilled in the draft of a law, because a copyist had not copied the document handed to him, to the end, was something which had never yet happened in the history of the legislation of any country. Another explanation was much more probable, for all the utterances of the report of the committee raised the same presumption. The committee had involved itself in a net of ambiguous phrases, sophistries, half-truths, contradictions and untruths. It must have had some object in view in doing so, and no other was imaginable but this, by trickery and fraud to get around the Missouri compromise.<sup>1</sup>

Three years before, Douglas had announced that he would never again deliver a speech on the slavery question, and had told the friends of the compromise that it would

<sup>1</sup> Douglas said in 1856: "He (Trumbull) knew, or, if not, ought to know that the bill, in the shape in which it was first reported, as effectually repealed the Missouri restriction as it afterwards did when the repeal was put in express terms." *Congr. Globe*, 1st Sess., 34th Congr., p. 1374. And yet he had in the report of the 4th of January, 1854, expressly declared, that the committee abstained from taking any position towards the Missouri compromise.

Atchison subsequently declared, in a speech delivered at Atchison, Kansas, that he had urged Douglas to introduce a bill for the repeal of the Missouri compromise, and expressed the wish in case he could not prevail upon himself to do so, to resign his position as president of the senate, that he might be nominated chairman of the committee on territories, and cause such a bill to be introduced himself. Douglas, he said, asked twenty-four hours to consider the proposition, and then declared himself ready to agree to it. When Wilson, in a speech of the 14th of April, 1856, referred to it, Douglas asserted that the whole story was a "stale abolition libel, without a shadow of truth," and that it had been frequently declared a "libel" by Atchison himself. Wilson, thereupon, read the original report of the Parkville *Luminary* of Atchison's speech, and maintained his assertion by an appeal to witnesses who had heard it. (*Congr. Globe*, 1st Sess., 34th Congr., App.,

be looked upon as a final settlement, if they would only be silent.<sup>1</sup> It was impossible that he could himself believe that his present course was reconcilable with these utterances, even if it could be allowed that he had been acting in good faith. He had put an end to the "finality" with full consciousness, for it was simply impossible that any politician should harbor the illusion that this interpretation of the compromise of 1850 should be agreed to universally. The report and the bill of the committee on territories made the whole question, in all its relations, a subject for discussion again. Douglas had broken the ice, and now blows came from all quarters to destroy it entirely. On the 16th of January, Dixon, of Kentucky, a Whig, moved an amendment to the bill of the committee on territories, expressly repealing the restriction of the Missouri compromise, which, in the most precise form, recognized the constitutional right of the slavocracy to go with their slaves into any territory of the United States;<sup>2</sup> and, on

pp. 390-393.) We need not try to explain why Douglas made no reply to this; but we may see in Atchison's speech a confirmation of the indication that the above mentioned explanation of the report of the 4th of January, 1854, was not honestly meant, and that Douglas in the remark directed against Trumbull, stated his original intention correctly; and hence the claim expressed in the text seems fully justified.

<sup>1</sup> "I wish to state that I have determined never to make another speech on the slavery question. And I will now add the hope that the necessity for it will never exist. I am heartily tired of the controversy. I will therefore say to the friends of those measures, let us cease agitating; stop the debate, and drop the subject. If we do this, the compromise will be recognized as a final settlement. If we do not, we have gained but little by its adoption." *Congr. Globe*, 1st Sess., 33rd Congr., App., p. 174.

<sup>2</sup> The material part of the amendment reads literally: "The clause in question of the Missouri compromise, shall not be so construed as to apply to the territory contemplated by this act, or to any other territory of the United States; but that the citizens of the several states or territories shall be at liberty to take and hold their slaves within



the following day, Sumner gave notice of an amendment which expressly affirmed the restriction of the Missouri compromise anew.<sup>1</sup> These two motions tore to pieces the artful, sophistical net-work of the committee on territories, from one end to the other. The gentlemen of the committee, the lukewarm, "the dough-faces," the weak-kneed lovers of peace, the political suitors had now to show their colors; the pistol was at the breasts of all with the words: "The man who is not for me is against me."

An "Appeal of the Independent Democrats in congress to the people of the United States," dated the 19th of January, took up the gauntlet<sup>2</sup> thrown down by the committee on territories and by Dixon. The subscribers assigned as the reason for their course, in the introductory words, their duty to warn their constituents when the institutions of the country and the existence of the Union were menaced. This was done by the bill of the committee on territories, which broke the faith that had been pledged, in a shameful manner, trampled valuable rights under

any of the territories of the United States, or of the states to be formed therefrom, as if the said act, entitled as aforesaid, and approved as aforesaid, had never been passed." *Congr. Globe*, 1st Sess., 33rd Congr., p. 175.

<sup>1</sup> *Ib.*, p. 186.

<sup>2</sup> *Ib.*, pp. 281, 282. The appeal was subscribed by Chase, Sumner, Giddings, Edward Wade of Ohio, Gerritt Swett of New York, and Alexander DeWitt of Massachusetts. The document appeared first in the papers under the wrong date of the 22nd, a Sunday. This gave Douglas an opportunity to play the pious zealot. He said that the protesters had remained true to their character, and had chosen the Sabbath to brew their bold untruths and base calumnies. But Chase immediately showed that the appeal had been composed on the 19th, and the foolish reproach of the violation of the Sabbath was thus left without a foundation. Douglas, on the other hand, had not yet proved that the two forms of his bill were due to the negligence of the copyist, and hence many people remained of the opinion that the 21st section was the fruit of a plot hatched on Sunday, the 8th of January.



foot and was a bit of conspiracy to hand over to slavery, soil dedicated and consecrated to free labor.<sup>1</sup> This territory embraced more square miles than all the free states exclusive of California, taken together. Moreover, it was the heart of the American continent, so that if the onslaught of the committee on territories were successful, a broad, unbroken belt of slave territory would separate the free states from the coast land of the Pacific Ocean. The existence of the Republic was greatly menaced. The continuance of the Union could not be secured by doing the will of the slavocracy in everything. It would collapse as soon as it became worthless, and it would be worthless as soon as justice and liberty had ceased to be the principles of its life.<sup>2</sup> But what justice and liberty required were here entirely coincident with positive law, for it was a discovery which had not been made till just now, that the Missouri compromise had been questioned, or even set aside by the compromise of 1850. A condensed historical retrospect served as a foundation for this claim, and closed with a charge of Punic faith.

The whole document was pervaded by the spirit of deep conviction and moral indignation. Those politicians to whom its tone was not entirely incomprehensible could

<sup>1</sup> "We arraign this bill as a gross violation of a sacred pledge: as a criminal betrayal of precious rights: as part and parcel of an atrocious plot to exclude from a vast unoccupied region immigrants from the old world, and free laborers from our own states, and convert it into a dreary region of despotism, inhabited by masters and slaves."

<sup>2</sup> "We warn you that the dearest interests of freedom and the Union are in imminent peril. Demagogues may tell you that the Union can be maintained only by submitting to the demands of slavery. We tell you that the safety of the Union can only be insured by the full recognition of the just claims of freedom and man. The Union was formed to establish justice, and secure the blessings of liberty. When it fails to accomplish these ends, it will be worthless: and when it becomes worthless, it cannot long endure."

not, therefore, doubt for a moment, that the appeal would find a powerful echo among a very large circle of people. Hence it made a great impression on them, in the sense that they looked upon it as an event of eminent importance. Blunt as Douglas's sensitiveness had already become to the spur of moral condemnation, he rose up in anger at these denunciations. His glowing ambition, his tactic mastery, his freedom from the shackles of moral scruples in the treatment of the slavery question, made him a terrible opponent, and he was perfectly aware of his strength. Hence he probably never doubted that he would win a victory over the denunciators; but that he could deceive anyone by the mask of his shallow sophistries, tangled into a labyrinth of contradictions, after it had been torn from his face by the appeal, he scarcely believed himself. The appeal was the declaration of a war to the knife, and on that very account, Douglas could be so sure that his sophisms would be as effective as the very best reasons, for the experience of the aversion of the people for such a struggle had not been lost upon him. But in the eyes of all those who, spite of the enervating influences of the everlasting compromise policy had, from principle, preserved their moral manfulness to such an extent that an unexpected blow of special violence could make them see things as they really were, he stood unmasked, for all his sophisms were not able to change the simple, plain fact, to which the protesters appealed. Hence he dwelt with all his force on the one point in which the appeal could be accused of some inaccuracy. If he succeeded in convicting the protesters of a falsification of the facts in one particular, the weight of the denunciation could, with sufficient boldness, be broken by the acts of questionable dialectics far enough to bring over to him all those of whom it was said: the spirit is willing, but the flesh is weak.

The appeal stated that the compromise laws of 1850 had affected only the territory acquired from Mexico.<sup>1</sup> Taken entirely literally, this was not correct. That Utah and New Mexico might not be included in wholly imaginary lines, but that they might be given natural limits, a part of the territory north of 36° 30,' claimed by Texas, and a piece of the Louisiana purchase were added to the former, and to the latter a large parcel of the territory of Louisiana. Douglas now fastened on this. These tracts of territory, protected by the Missouri restriction had, he declared, been added by him to New Mexico and Utah because the principles of the compromise laws had set aside the Missouri compromise.<sup>2</sup>

The opponents of slavery had certainly good reason, because of the wrong conclusions which might be drawn therefrom, to reproach themselves for having overlooked this placing in the same category unquestionably free territory and the acquisitions from Mexico. But undoubtedly they did not notice the mistake, simply because, in the numberless speeches which had been delivered, not the slightest intimation had been made that the Missouri com-

<sup>1</sup> "These acts were never supposed to abrogate or touch the existing exclusion of slavery from what is now called Nebraska. They applied to the territory acquired from Mexico, and to that only. They were intended as a settlement of the controversy growing out of that acquisition, and of that controversy only."

<sup>2</sup> "In fixing those boundaries I paid no attention to the fact whether they included old territory or not—whether the country was covered by the Missouri compromise or not. Why? Because the principles established in the bills superseded the Missouri compromise. For that reason we disregarded the old boundaries—disregarded the territory to which it applied, and disregarded the source from whence the title was derived. I say, therefore, that a close examination of this act clearly establishes the fact that it was the intent as well as the legal effect of the compromise measures of 1850 to supersede the Missouri compromise, and all geographical and territorial lines." *Congr. Globe*, 1st Sess., 33d Congr., p. 278.



promise had been thereby repealed. This consequence had hitherto never been drawn from the extension of the limits of Missouri, although in that case territory forever secured to freedom by the Missouri restriction had been converted directly into slave territory, which was here by no means the case. Still that oversight was a bad mistake, but only because people had to learn that, in the slavery question, nothing should be overlooked, since they had always to be on the lookout for Punic faith. But bad as the mistake was, Douglas greatly deceived himself as to the amount of advantage to which it could be turned.

Of what use was it to discover a whole series of subtle consequences, which amounted to an indirect setting aside of the Missouri restriction, by the compromise laws of 1850, so long as the express affirmation anew of the Missouri compromise by the previously cited proviso in the law on the limits of Texas and the organization of New Mexico had not been gotten rid of? Douglas did not overlook this and he endeavored to get over the difficulty by showing that precisely the part of Texas north of 36° 30', to which the proviso had reference, had been added to New Mexico.<sup>1</sup> Chase, however, convinced him immediately that he, who accused the signers of the appeal, in the most insulting words, of misleading the people by industriously perverting the facts, did more violence to them himself by that assertion. And as he had himself drawn the boundary lines and impressed them on himself anew in order to be able to refute his opponents, it was,

<sup>1</sup> "Yes, sir, the very bill and section from which they quote cuts off all (!) that part of Texas which was to be free by the Missouri compromise, together with some on the south side of the line, incorporates it into the territory, and every portion of the same shall come into the Union with or without slavery, as it sees proper." *Ib.*, p. 277.

indeed difficult to find any explanation of it except intended deception. The "otherwise" in the proviso relating to the Missouri restriction would have had no sense if the whole strip of land lying north of the Missouri line were cut off from the territory claimed by Texas and added to New Mexico, and this was not done.<sup>1</sup> But if the whole Texan domain north of  $36^{\circ} 30'$  did not now constitute a part of New Mexico, Douglas's argument had evidently no weight. Moreover, the compromise law contained, as has already been noticed, nothing about slavery in Utah and New Mexico during their territorial condition,<sup>2</sup> while the 21st section of the present bill

<sup>1</sup> "Now, sir, of the territory within this claim of Texas, that part between the  $32^{\circ}$  and  $38^{\circ}$  of north latitude, and west of  $103^{\circ}$  of longitude, was incorporated into the territory of New Mexico. That part between the 38th parallel and the Arkansas river, stretching north toward the 42d parallel in a long narrow strip, and that other part included within  $100^{\circ}$  and  $103^{\circ}$  of longitude, and  $36^{\circ} 30'$  north latitude, and the Arkansas river, were not incorporated into New Mexico, nor relinquished to Texas, but became a part of the territory of the United States. Here are these two tracts of country, which the senator (Douglas) says were cut off from Texas, and incorporated into New Mexico. If the claim of Texas was valid, they were cut off from her territory, but they were not incorporated into New Mexico. The senator is totally mistaken as to that; and it is not a trifling mistake. The tract west of New Mexico, between  $36^{\circ} 30'$  and the Arkansas river, contains over twenty thousand square miles. It is not easy to estimate the contents of the other tract. The first is as large as Connecticut, Rhode Island, Massachusetts, and New Hampshire put together. The two tracts probably are nearly equal in extent to the whole of New England, excluding Maine. There are seven states in the Union neither of which equals in extent the larger of these tracts, nor probably the smaller. Not one foot of this territory was incorporated into New Mexico, and yet the senator asserted that it all was." *Ib.* App. p. 136

<sup>2</sup> With the exception of the provision on the right of appeal to the supreme court of the United States, which need not here be considered, since it contained no expression of the opinion or will of congress in respect to the legal status of slavery.

treated of Nebraska as a territory. If the Missouri compromise was set aside for the former by the compromise laws, it was only provided, and to the extent, that the Missouri restriction was binding beyond the duration of the territorial condition, and whether its binding force extended so far, was always a debated question, and one very different from that of its legal force during the territorial condition. This, too, partly explained why the rounding off of Utah and New Mexico by territory protected by the Missouri restriction, had met with no objection. The eyes of the person who was convinced that the constitution did not give slavery a free pass into all the territories of the United States, the legal status of these lands in relation to slavery, for the time that Mexico and Utah were territories, experienced no change by their union with them, although it might be very doubtful whether the facts would be in keeping with the legal situation, and how the United States Supreme Court, in a given case, would decide the question. This rounding off of Utah and New Mexico, therefore, allowed the contradiction to continue which lay in this, that Douglas's bill took away the force of the Missouri restriction during the continuance of its territorial condition, for Nebraska, by the proclamation of squatter sovereignty, while it pretended to be only applying the principles of the compromise laws. Lastly, and above all, neither Douglas nor anyone else, could refute the assertion that his present conception of these principles, now came to the light for the first time. If Douglas and his associates had had them from the first, they laid themselves open to the reproach that they had industriously deceived congress and the people on this point, for it was simply impossible that in the endless, passionate discussions on the compromise laws, an element of so much importance should intentionally not have been



touched, or should have been brought forward in so obscure a manner that no one understood it, and it was just as impossible that the clear announcement of that view would have slipped away without leaving an impression on the opponents of slavery, when they now, at the first word, raised a protest whose tone proclaimed to the most unwilling ears that the struggle had entered its culminating stage. The history of the Nebraska bill in the last session, however, gave proof, as clear as day, not that a fraud had been planned in 1850, but that because a violent stroke had been resolved upon, a legal pretext for it had to be discovered somewhere.

But who was the father of this plot against the charters of rights of the free states, who had again dug up the tomahawk and caused the cry of terror to resound through the land, that the Union was in danger—a cry that came now not from the mouths of the slavocrats, but of their antipodes? If Douglas was its sole originator, was it to be feared that it would be successfully carried out? Might it, then, be difficult for the president to fulfill his promise that he would, to the extent of his power, defeat every attempt at the peace recently entered into? Was it believed that Pierce would now redeem his word, or was it expected to find him an accomplice of Douglas? The excitement which the bill of the committee on territories had caused, gave a pretty clear answer to this last question, but still people waited on all sides, in the utmost suspense, for the first tidings which allowed a safe conclusion as to the position which the White House intended to take on the plot.

Clingman relates that Pierce had expressed his satisfaction, in a brutally provoking manner, that the opponents of the slavocracy were to be once more thoroughly defeated.<sup>1</sup> This was certainly an invention. Not only was

<sup>1</sup> "The granite Democracy of New Hampshire would like for such

the man, in Pierce's case, not so completely lost in the politician, that he might have found pleasure in trampling the spirit of freedom in which he was born and in which he had grown up, under foot, but he did not even have courage enough to descend into such depths of infamy. He was not depraved, but his weakness made him the contemptible tool of demagogues. The part he played in the Mexican war had shown that he was an ardent patriot in his way and capable, for the sake of a cause, to make personal sacrifices, and to look danger in the face; but he was not made of such clay that the frightful responsibility would have lured him to plunge his people into an internal struggle, the remote consequences of which escaped all calculation, and compared with which the fiercest foreign war would have been a trifle. But he had found pleasure in being the first figure in the country, and he knew that he could be re-elected only if the slavocracy expected to be benefitted by his re-election. Hence an opportunity to show that he was friendly to them was very welcome to him, but he wished to serve them underhanded as far as possible, without excitement or noise. Whether Douglas had come to an understanding with him before he made his report of the 4th of January, and thought out the 21st section of his bill, I cannot discover from the sources at my command. He, however, made haste, as soon as the offer was made, to give emphatic expression to his acquiescence. But he should have been satisfied with this. With the true-hearted appearance of passive impartiality to hand out to the slaveholders the key with which they might open the door, which had hitherto been closed to them, would have suited him, for if a cry was

an issue to be presented, just to see how easily they would carry it." *Selections from the Speeches and Writings of the Hon. Th. L. Clingman*, p. 325.

raised at this, it could, in his opinion, by skillful working be so far checked that serious consequences might be averted. If on the other hand, the visor was raised still more, the struggle would break out in his own camp and no possibility be left him to tag, temporize or return to the right path; Pierce and the party had no further choice: they had to play *va banque*.

An article in the Washington *Union* defined the standpoint of the administration in this sense, but so cautiously formulated it, that the president might wheel about whenever his warning counsel was not regarded. It was now certain that a complacent creature would be found in him, provided only sufficient decision were shown. Douglas's bill, the *Union* said, had borrowed, for Nebraska, the provision of the compromise laws on slavery, and it expressly called attention to the fact, that the latter contained nothing about slavery, during the territorial condition. The *Union* thought it well to take no notice of the 21st section of the bill which threw overboard the maxims laid down in the report of the committee, and for this silence substituted squatter sovereignty. This could not be an oversight, and hence one thing was thereby established, that in this question the administration could, no more than Douglas, be trusted further than it could be seen. The *Union* played, however, the part of the best defender of the compromise, as it had really been concluded, but endeavored to create the false impression, that Douglas and his bill occupied the same standpoint, and represented it as entirely in order and self-evident, that the agreement entered into only for very definite tracts of country, should have force in all the rest of the territory of the Union, in which the actual and legal state of affairs was entirely different. To this were added warm assurances that a formal declaration of the nullity of the Missouri



restriction, was certainly much to be preferred. But, spite of the imperfection of the compromise of 1850, in this respect, adherence to it was to be recommended, since the urging of the constitutional question had been desisted from by a solemn contract. Even if these utterances, in the guise of academic investigations, were only unfruitful amiability towards the south, they had given the north a good deal to think about. Was it not to be inferred from them, that under certain circumstances the president would go as far as the slavocracy could ask? The conclusion led one to believe that their proximate aim was to make the slavocracy more willing to confide itself to the guidance of the president, and at least at first to be satisfied with what Douglas offered. The amendments proposed both by Dixon and Sumner were declared, considering the partisan position of both, equally dangerous. The Whigs and abolitionists would have nothing to lose, but might, by meddling with the compromise of 1850, gain. But every good Democrat should consider well whether the advantage to be expected from the repeal of the Missouri restriction, would not be more than balanced by the disadvantages attendant on the agitation connected with the carrying of it.<sup>1</sup>

<sup>1</sup> This article is, in my opinion, one of the most important documents in the Kansas-Nebraska struggle, and I, therefore, believe it advisable to cite the two most important sections of it, spite of their length: "We are free to declare that we should have been content to see the question thus presented, left where the compromise of 1850 and the bill of Judge Douglas both left it; and yet it would be uncandid in us if we did not add, that a clause in the compromise of 1850 and in Mr. Douglas's Nebraska bill, declaring the act of 1820 null and void because it contravenes the principle of congressional non-intervention, would have made both of these measures more in consonance with our opinions and wishes. But we accepted the acts of 1850 as they were passed, and approved their passage as a final compromise; and in the same spirit we have been content with the perpetuation of that com-

The only controlling consideration, therefore, with the administration, was party interest. It found no insurmountable obstacle in the plighted faith of thirty-four years' duration, or, according to its own testimony, in the word it had pledged in the compromise itself, and then again in the

promise, as proposed by Mr. Douglas's Nebraska bill. We have never yielded to the Missouri compromise any other obligatory force than that which attaches to a solemn covenant entered into by two opposing parties for the preservation of amicable relations. To such considerations we have felt bound to yield as ready an acquiescence as if the compromise was the law of the land, not only in form, but in substance and reality. Viewed as a legal question, we should be constrained to pronounce it unsustained by constitutional authority; viewed as the evidence of a compromise of conflicting interests and opinions, we have been ready to waive the legal question, and to abide faithfully by its terms. If we have studied the southern sentiment correctly, this has been the view taken of the Missouri compromise in that division of the Union.

"But Mr. Dixon's amendment may serve to stir up excitement on one side, whilst Mr. Sumner's will effect the like object on the other; and, as Whigism and abolitionism have nothing to gain and nothing to lose, the upshot may be that the agitation may inure to the benefit of the common opposition to the Democratic party. Prudence, patriotism, devotion to the Union, the interests of the Democratic party, all suggest that the public sentiment which now acquiesces cheerfully in the principles of the compromise of 1850 should not be inconsiderately disturbed. The triumphant election of President Pierce shows that on this basis the hearts and the judgments of the people are with the Democracy. We may venture to suggest that it is well worthy of consideration whether a faithful adherence to the creed which has been so triumphantly indorsed by the people does not require all good Democrats to hesitate and reflect maturely upon any proposition which any member of our party can object to as an interpretation upon that creed. In a word, it would be wise in all Democrats to consider whether it would not be safest to let well enough alone. To repeal the Missouri compromise might, and according to our view, would clear the principle of congressional noninterference of all embarrassment; but we doubt whether the good thus promised is so important that it would be wise to seek it through the agitation which necessarily stands in our path. Upon a calm review of the whole ground, we yet see no such reasons for disturbing the compromise of 1850 as could induce us to advocate either of the amendments proposed to Mr. Douglas's bill."

Baltimore platform, in the inaugural address, and in the annual message. If an agreement could not be reached to avoid, on principle, a formal decision on the binding force of the Missouri compromise, it considered the maintenance of the solemn pact beyond all question. It only warned people not to tear it to pieces, because, viewed from a purely party point of view, it was not expedient.

But precisely on the question, what, judging from a party standpoint, was expedient, Douglas thought very differently. He once, subsequently, in the fall of 1855, confessed "that his party, in the election of Pierce, had consumed all its powder, and that, therefore, without a deep-reaching agitation, it would have no more ammunition for its artillery."<sup>1</sup> After the victory was won, the party was wanting in the binding cement of a living idea which could and must find expression in a positive policy. Hence it was in danger, independently of the mischief caused by Pierce by his spoils policy, of perishing from dry rot, and the mistakes which the president had made in relation to that controlling interest of the politicians, had almost completely unhinged it, in a few months. If it was not to be entirely broken up, attention had to be quickly turned to some other question which by an appeal to the passions, might call the masses to the political stage once more. It would perhaps have been most agreeable to Douglas, in many respects, if that question could have been found in the domain of foreign politics. But the slavery question was evidently the nearest at hand, and, besides, it afforded a better opportunity to him to push his own person prominently forward, than if a quarrel had been engaged in with Spain on account of Cuba, or with England on account of the fishery privileges. He

<sup>1</sup> Kopp, *Geschichte der Sklaverei*, p. 295.



of course did not ignore for a moment that he was submitting the party to heroic treatment by making the slavery question the order of the day once more; but it certainly was a cure in his sense. The elements which, in this cardinal question had severed the internal bonds that bound them to the great body of the party, would certainly be irrevocably separated from it, but all that remained would be again firmly cemented together, and Douglas stood there, the master smith on whom the south, as he supposed, would cheerfully bestow the well deserved reward.

The assertion was immediately made by the different groups of the opposition, in a tone of honest conviction, that from these considerations had sprung the plan of the piece of villainy which was to be practiced against the holiest interests and rights, not only of the north, but of the whole civilized world.<sup>1</sup> Douglas and his following

<sup>1</sup> "If there be a stern necessity—political or otherwise—for this measure, if it be desirable to smash the Missouri compromise to relieve the present administration from the embarrassments in which it has involved itself by taking the abolitionists and Free Soilers of the north to its bosom, avow your policy openly, and the motives of that policy, and then we shall know where we are." Truman Smith of Connecticut, in the senate, on the 10th of February. Congr. Globe, 1st Sess., 33rd Congr., App., p. 169.

Much more sharply, Cullom of Tennessee in the house of representatives: "This bill, sir, should be on the private calendar, and the title of it should be so amended as to read, 'A bill to make great money out of small ones, and to sacrifice the public peace and prosperity upon the altar of political ambition.' . . . I repeat, that the author of this movement was a defeated, or, rather, a rejected presidential aspirant in 1852. Mark it; not as a 'fore and aft,' but as a beginner in corner. . . . First, it is notorious and no man can deny it, that, the period of this conversion (Douglas), we had a weak and tottering administration, reeling under the blows laid on from every quarter, north, south, east, and west—for its gross disregard of the platform upon which it came into power, and of the just claims of the conservative portion of the Democratic party; taking to its close embrace the

answered by indefatigably repeating their sophistries about the compromise of 1850, and by brilliant tirades on the supreme principle of American life, the right of self-government and self-determination, but they did not brand the charge as a shameful calumny invented by unprincipled party spirit. And how could the boldest denial have found credit, since the truth of the charge was admitted even by those who, on account of the spoils question, had brought the party into so sad a plight.<sup>1</sup> If an attempt at denial had been made, the only consequence would have been that those making it would have been obliged to belie themselves directly. The nature of the struggle was such that, as we shall yet see, people had to declare openly that party interest left no real party man a choice, and the further it developed, the more strongly had it to be emphasized that, in the presence of this necessity all scruples had to be silent.

two most pernicious factions north and south, and pouring into the laps of Free Soilers and abolitionists at the north, and of the secessionists and Fire Eaters at the south—the treasury pap and patronage at its command—to the almost total exclusion of the compromise men, both north and south. The administration got into great straits from this course, and the Democratic party was threatened with fatal dissensions. . . . The senator from Illinois, seeing this state of things, thought he had a good chance to do something handsome for himself, and at the same time to relieve the Democratic party from the suspicions which had attached to its head, and ward off the dangers which threatened its ascendancy. Some new and exciting movement was necessary to divert the public attention from the conduct of the administration. The senator from Illinois was the man for the occasion. He did not wait to be bidden by the administration. In looking over the whole ground, he thought the readiest way of creating a counter-excitement, to save the administration and the Democratic party, in the success of which he had an interest, would be to get up a row on the slave question. This is the true history of this movement." *Ib.*, pp. 538, 539, 540.

<sup>1</sup> Peckham said on the 18th of May: "It is the product of a weak, vacillating administration, seeking to obtain vigor by some extreme act of legislation."



Douglas had not completely surveyed the development of the play, in this direction, when he began it. He supposed that he was sure of the lively gratitude of the slavocracy, if he transformed the Missouri compromise into an unsubstantial phantom and smuggled squatter sovereignty into its place, and he expected to be able to win over the great body of the party in the north to favor this. He ignored that, with the compromise of 1850, and the pledge of finality made on all sides, an ultimate point, had, in a certain sense, been reached in the contest. If the flood-gates were now opened only a single inch, they could no longer be controlled; the force of the water would break them to pieces. The moment Douglas had taken the first step, he was no longer master of his movements. He had to go forward as soon as anyone went beyond him, or he not only forfeited all that he had hoped to obtain for himself, but the plan of a campaign so skillfully laid would become a chaotic struggle in which the party, without a leader and without a programme, would go to pieces and chance become the ruler of the country until "grinding necessity," would enable the people to find a way out of the confusion. Douglas had substituted, of his own initiative, the 21st section of his bill for the maxims laid down in his report, and the announcement of Dixon's amendment now compelled him just as quickly to recognize the 21st section as untenable and to seek a new formula which might satisfy the south and to which the majority of the party in the north might be won over.

Pierce stood under the same pressure. If Douglas could not lag behind the Whig, Dixon, Pierce could still less afford to permit himself to be outflanked by his own party comrade, who was the chief of the real leaders of the party, while he was only its official head. But it was



a hard thing to expect him to tear up the article of the *Union* of the 20th of January, before the printer's ink on it was dry, and to represent and require as a necessity what had in it been cautioned against as a dangerous mistake. The political conscience of the president might be broad enough, and his political feeling of honor dull enough, to let him accommodate himself to this without much ado, but he could not easily get over the considerations of expediency, for his views had not changed in twice twenty-four hours, and all those who were still capable of thinking on such matters must have had a very strange notion of his insight or his character if he praised to-day as white what yesterday he had denounced as black. If Douglas's calculation proved correct, that a process of purification of the party in respect to slavery had become unavoidable, and would result in its advantage, even if it were to take place amid convulsions, Pierce's personal interests would not thereby be served, after he had by his acts and now by his words favored a policy of concealment and obliteration. And zealous as he might henceforth show himself, would the slavocracy forget that the initiative had been taken by Douglas while he had to be pressed into the service? Besides, in the north, his rival had over him the advantage of the respect which cannot be refused resolution and energy, even when they work for the powers of darkness. Both labored for the slavocracy for the reward of the presidency and earned perhaps only the contempt of the people of the north, who had not exchanged the principles inherited from their own fathers for the modern southern principles, but then the contempt visited on Douglas had its roots in hate while Pierce seemed so contemptible that to hate him was to do him too much honor.

Pierce's subsequent course excludes all doubt that it

was not moral scruples but these party-politico considerations, with sharp personal points, which caused him to yield involuntarily when<sup>1</sup> Douglas now proved to him the

<sup>1</sup> "The sanction of the administration was not obtained without a struggle. Judging from the tone of the organ, it required some time—of course I speak comparatively, as the whole business was transacted with telegraphic speed—to convince the government, but when convinced, its conversion became thorough and complete. I am not so much disposed to censure, as to pity the administration for the change. Its first position indicates, that if it had possessed sufficient strength to resist the importunities of its friends, it would have done so; and it doubtless already repents its constrained submission in sackcloth and ashes." J. E. Heister, in the house of representatives, April 26, 1854, p. 517. *Ib.*, p. 517.

On the 30th of August, 1856, Houston said in the senate: "It (the Bronson matter) led to consequences which were deemed disastrous and ruinous to the prospects of the executive for renomination so far as it depended on the state of New York. It became necessary to counteract that effect, and to do something which would have a tendency to combine the south as a unit. The effort had been made on previous occasions to unite the south in regard to the tariff, but that was not effectual. It was then determined in conclave, as I was informed, to present this measure in order to make an issue on which to unite the south." Then he speaks of a conversation with one of the conspirators: "I said to him, 'Sir, if this bill passes, it will disrupt the Democratic party; it will prostrate Mr. Pierce; it will endanger the Union.' He replied, 'You are mistaken, general; it will re-elect Mr. Pierce.' 'Ah!' said I, 'how?' 'Sir,' said he, 'it will give him the united southern vote, and then he will get Illinois, Indiana, and Pennsylvania, and they will elect him without New York.'" *Congr. Globe*, 2d Sess., 34th Congr., p. 76.

There is only an apparent contradiction between the relation here given and the view developed by me in the text. Houston does not give the time of which he speaks exactly. The general assertion, in the first paragraph, is easily reconcilable with my view of the situation of things and of the personal attitude of Pierce, up to the 21st and 22nd of January. And Houston introduces the account of the meeting with the unnamed, with the words: "When I understood that the odious measure of repealing the Missouri compromise was in contemplation," leaving it uncertain, whether he had in mind the express repeal of the compromise or the original project of an indirect and tacit setting aside of it.



necessity of approaching the slavocracy another step. On Saturday, the 21st, and Sunday, the 22nd of January, Douglas, with the assistance of Breckenridge of Kentucky, Phillips of Alabama, and one or two other members of congress,<sup>1</sup> held a conference with the president. The results of these consultations were made known on Monday, the 23rd of January, by Douglas's announcement in the senate, that the committee on territories had subjected its bill to many alterations. The Nebraska bill had been transformed into a Kansas-Nebraska bill, its 21 sections had grown to 40, the 21st section, by which the negligent copyist had so greatly surprised the country, had disappeared and a section taken its place which was a still greater surprise.

Leaving the matter of these alterations entirely out of consideration, it must have been a matter of surprise to see the bill which had been adopted not a year ago by one house and which had been recommended in the other for adoption by the chairman of the committee on territories, manifest such a capacity for development in the hands of the same men before it had come up for discussion. As the history of the bill hitherto proved that he had maturely considered all pertinent questions, before the matter came officially before him, and as nothing had been changed in the affairs of the territory in question, this purely external circumstance compelled the assumption that a goal was sought by by-paths which it was not dared to reach directly. Deception and fraud were the standards under which Young America sought to bring about the promised glorious era, the president and his successor *in spe* were the standard bearers, and on a closer examination of the alterations they showed themselves so deeply involved in

<sup>1</sup> Wilson, Rise and Fall of the Slave Power, p. 382.



a net of constitutional sophistries, misrepresentations of historical facts and perfidious artifice, that the mass of the people would have to fall back with all their force on healthy common sense and their correct instincts, not to be caught in its meshes.

The bill, in its new form, lopped off one-half a degree of latitude from the country in the south and divided the rest into two territories,—the southern one Kansas and the northern, Nebraska. Even if the question of organization had had nothing to do with slavery, this would have been surprising and would have met with opposition, for there was still a very large number who considered it premature to give this wilderness a territorial organization. And, indeed, very weighty arguments could be made in favor of this view. In an official report of the Indian commissioner, Colonel Manypenny, of the 9th of November, 1853, to the secretary of the interior, we read that, so far as he had any information, there were besides a few traders and hunters, only three white men in the territory in October.<sup>1</sup> And Houston who was better informed on the Indian country than any other member of congress said that there was not a white man to be found in Kansas. There certainly was not so much need for haste that an equitable arrangement could not be made about redemption of the treaty rights of the Indians, fourteen tribes of whom had by federal law and federal treaty been put in possession of that territory.<sup>2</sup> Douglas, indeed, claimed

<sup>1</sup> "On the 11th of October, the day on which I left the frontier, there was no settlement made in any part of Nebraska. From all the information I could obtain there were but three white men in the territory—except such as were there by authority of law, and those adopted by marriage and otherwise into Indian families." *Message and Documents*, I, p. 275.

<sup>2</sup> *Congr. Globe*, 1st Sess., 33d Congr., App., p. 205.

<sup>3</sup> *Congr. Globe*, 1st Sess., 33d Congr., App., p. 205.

that the rights of the Indians were perfectly protected, since the bill expressly provided that until such an agreement had been made their reservations should not become parts of the territories. But Hiester, of Pennsylvania, rightly observed that that was an empty, word-catching expedient, since the reservations were actually included in the territorial limits and no one contended that they could not, without any more ado, be drawn into the territories.<sup>1</sup> And just as forcibly was Douglas answered by Clayton on the other point. He had called attention to the fact, that, according to a certified copy, in the records of the house of representatives, in an election in Nebraska, 914 votes had been recently cast, and he had thence inferred that there must be in it double that number of white men old enough to vote. Clayton replied to this, that he attached much more weight to the official data of the Indian commissioner, but that if there were really 1,800 white men in Nebraska, that only proved that 1,800 whites had gone there in open violation of the laws and treaties of the United States, for the Indian intercourse act of

<sup>1</sup> "It is not denied that this government is bound by treaties with various tribes of Indians not to include their lands within the limits of a territorial government. Yet these lands are included within the boundaries of the proposed territories. The miserable expedient of excepting them out of the limits by which they are in fact surrounded, until we obtain an assent which their possessors dare not withhold, is too awkward to deceive even the savages it wrongs. It is a shameless acknowledgment of their rights on the face of the instrument prepared to destroy them. Is it so essential to people the wilderness with negroes that we must remove the Indians, at the sacrifice of the most honorable trait in our national character? If we answer in the affirmative, and record the answer on our statute-book, we shall have but one plea—the magnitude of the offense—to rescue it from the contempt of the world. If instead of a public transaction, this were the private affair of every individual member, I should have no apprehension of the result." *Ib.*, p. 516.

1834 closed the territory to whites.<sup>1</sup> Congress was certainly under no moral obligation out of love for those law-breakers to open the territory to them, although it thereby, practically, if not literally, grossly, violated the rights of the Indians. But the federal government had already, in numberless previous cases, when its laws proved powerless against the forward movement of the pioneers, adopted the principle that, in the service of progressive civilization, it had to prefer the protection of their interests to the chartered rights of the red-skinned barbarians. To judge this policy by the simple principles of private morals was certainly not permissible, and congress could not be accused of any special enormity because it now acted in accordance with the many precedents.

But even if everything that could be said in favor of the organization of one territory were agreed to, there was not even the shadow of a reason for the demand for two territories of the first rank. How many whites soever there might be in Nebraska, in Kansas, which according to the bill was also to have a territorial legislature with two houses with an aggregate of 39 members, there was not one. Hence it was entirely unnecessary immediately to sever Kansas from Nebraska, and to give it at once so complicated and so costly a governmental apparatus, was an evident absurdity for which Douglas and his associates could not adduce anything like a pretext, for they dared not admit the real reason for it. There was only one reason that could transform this piece of nonsense into sense, and it therefore must have led to the project which fell upon congress as suddenly and apparently as uncaused as a meteor from the political sky. If the whole tract of

<sup>1</sup> *Ib.* p. 390



country was organized into one territory, it was undoubted, considering its geographical situation, that the number of immigrants from the free states would far surpass the number of those from the slave states. To leave it to the settlers to decide whether slavery should be permitted or prohibited in it, was, therefore, a concession to the slavocracy which could be of practical value to them only as a precedent for the future. For the present they gained nothing by it, and hence Douglas intimated to them that they should not be put off with fruitless principles. The matter assumed an entirely different form if the southern part was made a separate territory, no longer controlled by Missouri bordering on it. Hence the territory was not divided into equal parts, but Kansas was about the one-fourth of the whole tract, and all endeavors to push the northern limit further forward were opposed by the friends of the bill. For the same reason, it had to be made immediately a territory of the first order, in order to bring the slavery question to a decision by a crowd of squatters from the border counties of Missouri, before the stream of immigration from the free states had begun to flow into it. Douglas, Pierce, and their associates therefore sailed under false colors when they represented the non-intervention of congress, in respect to slavery in the territories, as their guiding principle, for the division of the Nebraska territory had no meaning if it were not made in order to secure a part of it to slavery, so far as it could be done, without expressly legalizing it by a federal law. The legislative intervention of congress in favor of the slavocracy in the name of the non-intervention principle—such was the watchword invented by Douglas and adopted by Pierce; and the more directly and incisively they were obliged to have recourse to it under the pressure of the slavocracy and the consequences of their own steps, the more

zealously and readily did they point to the "great principle of non-intervention," now flatteringly, and now provokingly seeking to do justice to the taste and feelings of all.

The second essential alteration of the bill which was agreed to in the conferences of the 21st and 22d of January showed still more plainly that a principle was the last thing by which these gentlemen had allowed themselves to be guided. They had maintained nothing of the principle but its name, in order, by a really vast expenditure of cunning in the crookedest ways to get around facts, logic and principles of every kind. All federal laws which were not locally inapplicable were to be in force in the territories, except the prohibitory clause of the Missouri compromise which had been superseded by the compromise laws of 1850 and which was declared inoperative.<sup>1</sup>

The allegations in this clause have already been refuted as to their contents, but as they here appear in a new form with a modification of the reasons assigned for them, they must be submitted to criticism once more.

We must first recall that the radical fraction of the slavocracy with secessionist tendencies, in the Nashville convention, had, after the adoption of the compromise laws, represented the extension of the Missouri compromise to the newly acquired territory, as their ultimatum. They had therefore not dreamed that the Missouri restriction had been superseded by the new compromise, if people did not now want to make the absurd claim that the Nashville convention looked upon the abolition of the Missouri compromise as a violation of the interest

<sup>1</sup> Except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 3, 1820, which was superseded by the principle of the legislation of 1850, commonly called the compromise measures, and is declared inoperative."

and rights of the south. If Douglas, as he asserted, in the determination of the limits of Utah and New Mexico, was entirely conscious that the Missouri line was blotted from the map by the new compromise, why did he neglect telling the radicals of the south that, by their desire for its continuation to the Pacific ocean, they were only trying to spite their own faces, as they had already received much more than they required? According to this congress would have granted much more than the minimum demanded by the extreme wing of the slavocracy and the latter known nothing of it. Under these circumstances it was certainly justifiable to require that Douglas's proof should be absolutely unassailable in every point, if people were forced to recognize his assertion as well founded. Far from satisfying this requirement, the slightest examination showed that he could not only not produce a half-way tenable argument to support it, but that the repeal of the Missouri compromise could not have been effected at all in the way claimed in the clause cited.

When congress, in 1845, was discussing the annexation of Texas, Douglas had, in various ways, endeavored to secure the part of it north of the Missouri line, to free labor. One of the amendments which he introduced in this behalf assigned as a cause for this demand, that the Missouri compromise had been entered into before Texas had been ceded by Spain.<sup>1</sup> So holy and so irrefragably binding, therefore, was the Missouri compromise to him, at that time, that it should be not only extended to Texas, by a new agreement, but that it *eo ipso* had, in his opinion, to come into force, although the territory in question had, for a long series of years, not been a part of the United States and although in independent Texas, as in all other parts, slavery had a legal existence there. Texas and the

<sup>1</sup> Congr. Globe, 2d Sess., 28th Congr., p. 85.



slave states had to adopt this standpoint. By reason of the Missouri compromise, slave territory was, on the annexation of Texas, delivered up to free labor. The compromise of 1850 had expressly left the clause by virtue of which this had happened, in force, and yet the principles of this compromise were to have tacitly repealed the Missouri restriction, that is delivered up the entire territorial area of the Union to slavery. This was a discovery which must have excited unlimited surprise, not only because it was made by Douglas, but still more because it must have been principles of a species hitherto unknown which could work such a wonder of enormity. The history of legislation in the United States had not hitherto had a case to show in which a law was repealed by the unexpressed principles inferred from or inserted into a law of subsequent date; hitherto, as in all civilized countries, to repeal a law, a new legislative act or a declaration of invalidity had been necessary to the abrogation of a law. It is an old saying that it is better to have no law than an uncertain law. But was not the uncertainty of the law raised to the dignity of a principle of federal legislation if it were admitted that laws were annulled by principles which, according to an interpretation made years or decades afterwards, had guided the legislator in some new law? If this "principle" was admissible, it could be shown that the Union had from time immemorial been involved in legal anarchy, for laws of the most vital importance had been passed which were evidently repealed by the principles of subsequent laws. Edward Everett called attention to the fact that Congress, in 1790, had accepted a cession of land from North Carolina, on the condition made by that state that it should pass no law "which might affect the emancipation of slaves." That con-

dition was not in harmony with the ordinance of 1787 for the territory lying north of the Ohio, and the latter was, therefore, according to Douglas's theory, null and void. This case was entirely identical with the present one—if it were and could be granted that the compromise laws of 1850 had really treated Utah and New Mexico, during their territorial period as a *tabula rasa*, in respect to slavery—and yet, in the sixty-four years which had elapsed since that cession was made, it had occurred to no one that it had been cancelled by the ordinance of 1787.

If the timid masses of the north would not have unquestionably taken the greatest offence at it, Douglas and his associates would not have needed to hesitate to recognize the legal constitutional identity of the two cases, for the object in view was to trample out the spirit from which that instrument had sprung with the full consent of the south and the co-operation of its most distinguished men. That the irreconcilability of the ordinance of 1787, with the "principle" of the law of 1790 had remained unnoticed so long, or that it was at least neglected to draw the correct influence from it, could, in their opinion, be no valid objection. The annulment of the Missouri compromise by the principles of the compromise of 1850, had not only remained unexpressed for several years, but congress had recently by a legislative act afforded actual proof, that it was not yet become aware of the fact. Culom asked why it was that in the last session, on the occasion of the organization of Washington Territory, nothing had been heard of it.<sup>1</sup> He anticipated the only answer

<sup>1</sup> Nobody questioned the fact. In the next session, on the other hand, Douglas spoke of the principle of non-intervention and squatter sovereignty as if he was speaking of a universally known and unquestioned fact, but said nothing to prove the bold assertion. Pierce followed his example. In his third annual message of the 31st

that could be given to this, and deprived it of all force. Washington was certainly a part of Oregon, and for Oregon the Missouri compromise had been left in force. But the organization of Oregon was older than the compromise of 1850, and if the latter repealed the Missouri com-

of December, 1855, the president said: "But the true principle of leaving each state and territory to regulate its own laws of labor according to its sense of right and expediency had acquired fast hold of the public judgment to such a degree, that by common consent, it was observed in the organization of the territory of Washington." *Statesman's Man.*, III., pp. 2125, 2126. When the territory was organized not the slightest intimation had been made that there was any such intention and hence the claim now seemed at the first glance entirely baseless and monstrous. It required the sagacity of a jurist acquainted with all the tricks of the pettifogger to discover the clause in the organization law which supported it. But the law contained such a clause; it could not have come into it by chance, and if it had not had this intention, it was impossible to find out why it had been so formulated as to admit such a meaning. Hence the suspicion cannot be dismissed that the plan which was executed in the Kansas-Nebraska bill had already been laid. The organization law of Oregon expressly stated that the ordinance of 1787 was in force in the territory. This law dated from the 14th of August, 1848. But the 12th section of the organization law of Washington Territory provided: "That the laws now in force in the territory of Oregon, by virtue of the legislation of congress, which have been enacted and passed subsequent to the 1st day of September, 1848, . . . be, and they are hereby, continued in force in the territory of Washington, until they shall be repealed or amended by future legislation." There would have been no sense in putting the 1st of September for the 14th of August, if it were not desired subsequently to draw from this date the sophistical conclusion that the validity of the ordinance of 1787, that is the express prohibition of slavery, was not to be recognized in Washington Territory. If the date was taken notice of, this had to be acknowledged, and if it were acknowledged, the struggle of 1854 was all over in 1853. People would then not have been satisfied that that 12th section did not expressly declare the laws of earlier date to have no force in Washington Territory, and hence it did not by any means follow from that provision that it should no longer, as an independent territory, participate in the protection against slavery which was assured it "forever," as a part of Oregon, by the 14th section of the organization law of August 14, 1848.



promise for Nebraska, which had so long been under its protection, why should its application in recent times have the force of law? Hence its annulment by the principles of 1850 was not a real annulment but only a suspension of it for still unorganized territory. According to the doctrine of squatter sovereignty, this might be allowable, but it was impossible to stop at it, since it was only a practical expedient founded on general reasoning, but without any legal basis, so long as the question of the constitutional power of congress in regard to slavery in the territories was not yet decided. According to Douglas, congress had in 1850, taken no position not on the policy but on the constitutionality of the Missouri compromise, and should take none now, but he summoned all his strength to prove that the Missouri compromise had no legal force for years, urged as he was thereto by the correct view, that the north could be overcome only by the cassation of its legal title and the south satisfied by the ascribing of a legal title to it. Great as was his repugnance thereto, Douglas's reasoning always led him to the unconstitutionality of the Missouri compromise, and this admitted, not only was squatter sovereignty thrown overboard, but the doctrine of the semi-lateral annulment of the Missouri restriction was untenable. The Missouri line could be blotted out only provided it was declared unconstitutional, and if it was unconstitutional, the Missouri restriction fell away not only for the territories to be organized, but also for those already organized, and in those territories which had been already transformed into states it was an act of violence. But these unavoidable logical consequences could not be admitted, for it was very dangerous, at one point to refuse to enforce the alleged constitutional right while at the other everything was done to enforce it, and if it were insisted on in the former case, it was certain that an over-

whelming majority of the population of the north would oppose it to the utmost.

And this was not the only unpleasant consequence for the south, to which the doctrine of the repeal of laws by the principles of other laws led, if it were carried further. Wade called attention, in the senate, to the fact that one of the compromise laws forbade the slave trade in the District of Columbia, and correctly said that, according to Douglas's new theory, the principle of that law must be universally applicable, that is that the slave trade had been entirely prohibited since 1850.<sup>1</sup> By a little expenditure of time and trouble, many other laws might have been discovered whose "principles" turned their edge against the south, and if the search after principles was logically carried on, on both sides, and with the skill of a Douglas, there would remain at last, only one law and one principle: chaos.

This was the outcome of the theory of the repeal of the Missouri restriction by the principles of the compromise laws. The absurdity and enormity of the doctrine were so clear that an exhaustive refutation of it would be unnecessary, were it not that the setting aside of the Missouri compromise was, in truth, not the end, but the starting point of Douglas's reasoning. He wanted to clear the way completely for the slaveholders into the new territories, and as he did not dare to say so, he claimed that it had been done years before, and since this claim had no foundation whatever in law or fact, he had to have recourse to a simply foolish theory. By doing so, he bore no favorable testimony to his intellectual acumen or to his power of invention, for it was an impossible undertaking to set aside the Missouri compromise in such a way that it would

<sup>1</sup> Congr. Globe 33rd Congr., p. 840

not be noticed. And that was, after all, what Douglas aimed to do by his sophistry. The Missouri line had to be blotted out in order to open the territories to the slaveholders, and yet it was not to be blotted out by congress. The report of the 4th of January had desired to leave the question of its jurisdiction an open one, and Douglas desired to have it believed that the bill in its form of the 23rd of January, maintained this view. He wanted, by throwing the responsibility on the compromise of 1850, to conceal the fact that the sacred compact was now to be broken; and the act was simply to be done, but to bear no name. The word "superseded" had been chosen with refined skill. The deed was the work of the legislation of 1850, but only as a consequence of the principles of that legislation, and hence a declaration of congress that this consequence had taken place, was necessary. But the declaration announced not the cassation, but only the ineffectualness of the Missouri compromise. The old compact was not revoked and was not to be revoked; it only could not come into force because the principles of the new compact, irreconcilable with it, had the precedence; not the existence, but the materialness of the Missouri compromise was denied.

The more hotly his opponents followed Douglas into this thicket of verbal distinctions, the more he might hope that the number of those would grow, who would allow themselves to be deceived as to the true nature of the question. But the pretentious friends into whose service he had entered, took care, by their well calculated honesty, to make it more and more evident that this wild chase was a game to divert attention from his real aim. Dixon immediately declared that the bill in its present form satisfied him fully, as it had adopted the contents of the amendment proposed by him, that is, that it had actually



repealed the Missouri compromise.<sup>1</sup> Douglas could not contradict this assertion, but he made haste to deprive it of its poisonous sting to the extent of his ability. Dixon's acquiescence, he said, filled him with satisfaction, for he and others had previously understood his amendment to mean that he desired to introduce slavery into the territory by a federal law. According to the bill, on the contrary, congress maintained absolute neutrality; it only removed the obstacles previously placed there, out of the way, in harmony with the principles of 1850, leaving it entirely to the population to decide that question like all others, as they found best.<sup>2</sup>

The assertion that this deportment of congress was neutrality has been already refuted, and the assertion that the population, in all other respects had the same right of self-

<sup>1</sup> "If I understand it (the amendment), it reaches a point which I am most anxious to attain—that is to say, it virtually repeals the act of 1820. . . ."

"The amendment, which I notified the senate that I should offer at the proper time, has been incorporated by the senator from Illinois into the bill which he has reported to the senate. The bill, as now amended, meets my views, and I have no objection to it." *Ib.*, pp. 239, 240.

"I feel it my duty to say a word in explanation. I am glad to hear the senator from Kentucky say that the bill, as it now stands, accomplishes all that he desired to accomplish, by his amendment, because his amendment seemed to myself, and to some with whom I have consulted, to mean more than what he now explains it to mean, and what I am glad he did not intend it should mean."

"We supposed that it not only wiped out the legislation which congress had heretofore adopted excluding slavery, but that it affirmatively legislated slavery into the territory. The object of the committee was neither to legislate slavery in nor out of the territories: neither to introduce nor exclude it, but to remove whatever obstacles congress had put there, and apply the doctrine of congressional non-intervention, in accordance with the principle of the compromise measures of 1850, and allow the people to do as they pleased upon this, as well as all other matters affecting their interests." *Ib.*, p. 242.

determination, will be hereafter critically examined. Just now we have only to establish whether, and to what extent, this reply was a new change of front in reference to the principal question.

The wording of Dixon's amendment completely justified Douglas's view. But as Dixon was of opinion that his bill was incorporated into the bill, it evidently followed, that it was his conviction that "to remove the obstacles" would have the same effect as the formal recognition of the legal existence of slavery in the territories. And this was certainly undeniable to the extent that slaves could be brought unhindered into the territories so long as an act of the population or a judicial decree did not forbid it. Leaving the consequences which were to be expected from this out of consideration, it was by no means certain that the population would be able to put their veto on it, even if they wished to do so. The committee on territories might be honestly convinced that it would have the power to do so, but whether congress, by the simple adoption of the bill, accepted this view in a binding manner, and whether the courts would recognize that as the legal consequence of the removal of the obstacles, were different questions. Douglas, therefore, to say the least, had not shown a difference between Dixon's amendment and the proposals of the committee in respect to practical consequences, while Dixon's explanation had wrung from him the admission that there were still obstacles in the way of slavery, which had to be removed; the wording of the bill placed the supplanting of the Missouri compromise in the past ("was superseded"), while, according to this explanation, the obstacles which still existed were to be removed in accordance with them. The difference was certainly of importance in passing judgment on the man who a few years before had said that no hand

would be ruthless enough to disturb the Missouri compromise.<sup>1</sup>

The absurdity of the claim that the Missouri compromise had been set aside by the principles of 1850, was so strikingly proven, that Douglas was obliged to accommodate himself once more to try to improve the bill and make it harmonize with the explanations last referred to. On the 6th of February, he moved to substitute "which is inconsistent with," for "which was superseded by."<sup>2</sup> The bill provided that all federal laws, not locally inapplicable, should be in force in the territories with the exception of the Missouri restriction "which is inconsistent with the principles of the legislation of 1850." In defence of the amendment, Douglas said only that it changed the sense of the clause in nothing, that the new form given it was only clearer than the former one. This claim by no means found universal acceptance in his own camp. Badger expressed his wonder at the fact that Cass had decidedly rejected the word "superseded," but was willing to accept the term "inconsistent." Cass curtly and pertinently replied that a law could be set aside only by legislative action; the incompatibility of the principles of 1850 with the Missouri compromise was the ground why that action should now be resorted to, but the principles themselves could not be the repeal of the compromise. He added that, in his opinion, it should rather be said that the repeal of the Missouri restriction ensued because of its unconstitutionality, of which he had

<sup>1</sup> In a speech delivered at Springfield, Oct. 23, 1849, he closed a long eulogy of the Missouri compromise with the words: "This compromise had become canonized in the hearts of the American people, as a sacred thing which no ruthless hand would ever be reckless enough to disturb."

<sup>2</sup> Congr. Globe, 1st Sess., 33d Cong., p. 343.



been always convinced. This last was not true. The generation of politicians to which he belonged and even the one following it, had scarcely a man who was justified to say that, and on that very account it was highly hazardous to follow Cass's advice. The fixing of the fundamental law of the state in writing is of small value, unless the spirit of the people is sufficiently conservative to make the interpretation of it in respect to fundamental principles a stable one. It was very bad when congress ventured to discover principles in the laws which, at the time of their passage, no one had seen in them; but it was infinitely worse when it extended its zeal for discovery to the constitution likewise.<sup>1</sup> There was a great number of questions of cardinal importance in respect to which, from the very first, differences of principle as to the proper interpretation of the constitution had prevailed, and which in the actual development of things, had served as a corrective to one another. On the constitutional power of congress to prohibit slavery in the territories, as well as on this, that it was wise to exercise that power, at least in the northern half of the territorial domain of the Union, there had, on the contrary, been originally only one opinion. When another opinion began gradually to be

Henry Clay writes on the 12th of February, 1838, to Frances Lieber, concerning his *Legal Hermeneutics*: "I was particularly pleased with your chapter on *Precedents*. If I could have desired any change in it, it would have been that you should have insisted with more earnestness on the obligation of the legislative authority in a free country to conform to those expositions of its constitution which may have been often and deliberately made. If considerations of security and stability to private rights require that judicial precedents should not lightly be departed from, the same considerations of stability and security in respect to the rights of a whole nation, enjoin that the fundamental principles—which have been deliberately settled in the administration of government—should not be too easily departed from." Perry, *The Life and Letters of Francis Lieber*, p. 127.

formed, side by side with this latter, the impulse thereto did not come from the former cause, but from the latter: a different policy was not called for, because the constitution was differently understood, but because the slave-holding interest did not find the previous interpretation to its interests, it began to understand the constitution differently. And that congress now made the new opinion the official confession of faith of the republic, was due to the fact that the decisive votes of the north yielded to the pressure of an interest grown too powerful. People, in the free states, had not learned to consider the policy hitherto pursued unwise or the surrender of it indifferent, and even in the south, there were many, as Badger now again proved, who did not admit the constitutionality of a compulsion thereto. To what extent individual southern and especially northern politicians had honestly reconsidered the matter, must remain undecided; but history has already, and with undoubted decision, given its final judgment to the effect, that people were not urged by a constitutional discovery honestly made, to a change of policy; but because they were resolved to break with the policy of the fathers, the constitutional discovery necessary thereto, was made. In this way not only did they set themselves up as judges of the fathers, but the logical consequences of the newly discovered principle built up an entire world of new constitutional doctrines which accorded with the constitutional law which had hitherto obtained, and which had become a living fact, in about the same way that the wooden sword and cap and bells of a harlequin would with the character of a gray-bearded sage. But this might, in the course of time, have much more disastrous consequences than the triumph of the slave-holding interest, for it undermined, in the heads and hearts of the people, the moral foundation by which alone it had been transformed from a piece of paper

into a living force. And yet Cass was right; for how could it be hoped to wrest from the free states a renunciation of that which had been adjudged to them thirty-four years previous, and which they were convinced could not be surrendered without greatly injuring their vital interests and the cause of humanity, when it was feared to declare their possessory title contrary to law? But while people recoiled from doing this, they bore the full responsibility for the step, and therefore also the full odium of it, for they acted from free choice, and at the same time, they by the claim of unconstitutionality to the extent that their own conviction of that unconstitutionality found credence, were personally completely protected.

In this, lay the great difference between the mode of expression of the 23d of January and the amendment of the 6th of February. The latter was not only clearer, as Douglas declared, but it cast responsibility on the proper shoulders. In the new formulation the claim was dropped that the congress of 1850 had, in what concerned Kansas-Nebraska done anything in respect to the Missouri compromise. Even if we wished to admit, for the sake of argument, that, in the organization of Utah and New Mexico, it was governed by principles which were incompatible with the compromise, still it needed a free act of the will of the present congress to set it aside here. It had to decide independently whether it would bring the new principles into application in these territories, or whether it wished to leave them under the supremacy and protection of the principles of the fathers which were in full legal effect in them.

The few words which were exchanged about the amendment sufficed to show Douglas that the new wording did not help him out of the conflict with the facts, the logic and the legal principles in which he had been involved



by the previous formulation, while it had new consequences of the most disagreeable kind for him. Hence he requested the senate to adjourn the discussion that he might be able to draw up a formula which could give rise to no justifiable objection. On the following day, he laid the clause before the senate, in the form in which it was to be incorporated into the law. It was, in the main, the amendment of the 6th of February, to which the explanation occasioned by Badger's remarks was appended, and to this was added the declaration that the territorial population should be subject only to the constitution in the exercise of their right of self-determination.<sup>1</sup>

At first, Douglas did not make any commentaries on the amendment, but only stated that all friends of the measure had agreed upon it. This was, indeed, of greater importance so far as success was concerned, than the most brilliant commentary, but it was also the only thing that could be spoken in recommendation of it. Douglas had said that he wanted to make the clause more plain. As to the principal thing, it was now, indeed, entirely plain: the Missouri compromise was repealed by the 33rd congress. In all other respects, however, the mist had only become thicker, and that, as Smith of Connecticut rightly said, had been intended.<sup>2</sup> Men were forced to express

<sup>1</sup> " . . . which (the Missouri compromise act) being inconsistent with the principles of non-intervention by congress with slavery in the states and territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void, it being the true intent and meaning of this act not to legislate slavery into any territory or state, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States."

<sup>2</sup> "Must all territorial legislations be cast in the same mould? May you not have one set of provisions for one territory, and a different set for another? Nay, is not this often indispensable? You therefor—"

openly what they had from the first intended, but they did not say it in the few simple words which would have been sufficient for that purpose, and which would have flowed of themselves from the pen if they had had a good conscience. A thick coating in several layers, which the slightest analysis would have shown to be a noxious product of political manufacture, was made to surround the bitter pill, in order to induce the north to swallow it. They did not dare to say plainly: we repeal the Missouri compromise, and hence congress was obliged to humble itself, as Benton forcibly expressed himself, "to stick a stump speech into the belly of the bill," by means of which it was hoped to persuade the north into its own self-debasement.

We shall hereafter have to examine more closely the many-colored masquerade dress of defences and excuses, which was intended to keep the people from recognizing how ugly and repulsive was this legislative abortion in all its natural nakedness. The cutting criticism of Smith and Benton has been sufficiently justified by what has been said already, and with that we must be satisfied for the present. The only thing newly added was the clause at the end, and to it we must therefore devote some attention.

If the repeal of the Missouri compromise had taken

arrive at the conclusion (which you were determined to reach anyhow) that the eighth section shall be 'inoperative and void'—without any reason. It is your sovereign will and pleasure. Further, are not the words 'inoperative and void' perfectly explicit? What occasion is there to declare their 'true intent and meaning'? Or, in other words, why have you introduced the peroration, and why a procedure so extraordinary?

"Sir, this is legislation with excuses or apologies.

"You knew that a direct repeal, and in the ordinary form, would give a great shock to public sentiment in this country, and therefore the subject would be befogged, and be made to assume a plausible aspect." *Congr. Globe*, 1st Sess., App., p. 173.



place under the form of the amendment of the 6th of February, the declaration made by Douglas, on the same day, would have had little importance, since from the vote of congress it could not have been conjectured with certainty, whether congress would assent to the views and aims of the committee on territories in relation to the legal consequences of the step. On this important point, therefore, the bill, in its present form, seemed to have gained greatly in clearness, since the right of self-determination of the population of the territory was adopted into the text of it. But, on closer examination, it became apparent that this adoption was not intended, by any means, to give undoubted expression to the unconditional recognition of that right. In the first place, it was to be observed that the Missouri compromise was thereby directly "declared inoperative and void," while, in respect to all the rest of the clause, only the "true intent and meaning" of congress was stated. After all the tricks which had been tried already, it could not but be suspected that this difference in the phraseology covered a deeper intent, and this suspicion became a certainty by the concluding words. Chase objected to them, and called attention to the fact that they were not to be found in the original bill. Douglas gave him a bombastic answer, but had not a word to say why he now considered necessary what he had immediately before considered superfluous. He only kept repeating continually the questions, whether Chase did not wish to subject the population of the territory to the constitution to which he had sworn; and whether congress could grant rights to the territorial population which were not in harmony with the constitution. In a popular assembly of city proletarians or backwoodsmen, this would probably have been considered a brilliant reply, but, in reality, it was so transparent a subterfuge, that Douglas would cer—



tainly not have had recourse to it in the senate, if he could have opposed an argument of any kind to Chase. That no rights could be granted to the territorial population which were opposed to the constitution was self-evident, and, of course, had never been questioned by Chase. But precisely because it was self-evident, there was no reason to say so expressly. If it was insisted on to do it, without being able to give any pretext therefor, there must have been a dark design back of the explicit expression of what was self-evident, for it was not to be supposed that senators of the United States would allow themselves to be moved simply by childish caprice. And what that design was, was as palpably plain as if it had been expressed in the clearest words.

The formula, "subject only to the constitution," had its history, and the person who could think back only a few years had certainly not forgotten it. It had already served once to open the territories to the slaveholders. It was an invention of the southern radicals, and intended, in the laws for the organization of territories, to register their claim that, according to the constitution, no difference should be made between slaves and other property.<sup>1</sup> It is evident that the adoption of the clause into the law was no recognition of the claim, but it meant that congress allowed

<sup>1</sup> In the house of representatives, Zollicoffer of Tennessee did Douglas the poor service of stating the true meaning of the addition without reserve. "I believe that the people of a territory should have conferred upon them all the rights of sovereignty over their domestic affairs which congress can rightfully confer upon them in accordance with the limitations in the constitution of the United States. This the bill before us does, and nothing more. It cannot be shown that it confers upon the territorial legislature the power to prohibit slavery, without showing that the constitution gives us no protection against such an act; for it expressly limits the grants of power to the sanctions of the constitution." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 586. So too, Phillips of Alabama, *Ib.*, p. 533.

the question to be considered an open one, that is, it refused to decide the question itself and shifted the decision of it on the courts. The bill, therefore, did not clearly and distinctly say what the legal consequences of the abolition of the Missouri compromise would be, but the concluding words placed a point of interrogation after the declaration that the territorial population would have to judge whether slavery should be permitted or forbidden. The question was left undecided, because it had to be left undecided, if it were not wished to renounce the adoption of the bill from the first. Douglas's undertaking would have been entirely without any prospect of success, if he had demanded the repeal of the Missouri compromise, without any commentary. The possibility of success depended on his winning the support both of the the southern radicals and of those "dough-faces" who did not dare, in the presence of their own consciences or of their constituents, to lay hand on the compact which had been considered sacred so long, unless they could convince themselves and their constituents that they could put something better in its place. The "dough-faces" could not be drawn over unless squatter sovereignty was proclaimed, nor the radicals unless it was done in an unconditional manner. Hence the one party was told: we merely set aside the Missouri restriction, because it is contradictory to the entire spirit of our people and of our institutions, that local affairs should be regulated by decrees of congress; and to the other: it is only our unpresuming opinion that, with the breaking down of the Missouri barrier, the Democratic principle of the right of self-determination comes into full force; the courts will have to judge of its correctness.

If all the friends of the measure, as had been stated by Douglas, had approved this wording of the clause, they had all approved it in the full consciousness that its word



ing permitted everyone to find in it what he wished. On one point only were they united, that the Missouri compromise should be repealed. But to reach that end they had further agreed: 1, to endeavor to convince the people that by doing so they would banish the slavery question so far as the territories were concerned from the world, since the fundamental principle of all American life would thenceforth be applied to them in its fullest extent; and 2, truly to deliver over the question to the gods of chance, but with the double reservation: according to circumstances to interfere in their action and correct it, and to-morrow to meet the allies of to-day with the claim that the question of principle had been decided in their sense. Hence the very opposite of what they pretended to do was to be done. If anywhere, the slavery question had no longer existed in the unorganized territorial domain, for in respect to that question, the last patch of that domain had, according to the existing laws, a fixed legal status. But, indeed, the repeal of the Missouri compromise created a *tabula rasa*. Everything was again unsettled and in the worst manner in which it could be done, for congress divested itself of its own right of decision, postponed the decision to the indefinite future, left it doubtful with whom the decision lay, and by all this made an unceasing, embittered struggle for a decision unavoidable while it, with full deliberation, palmed off on the people a phantom as a principle by means of which everything would, so to speak, regulate itself. Whether the legislative bodies of other peoples ever drew up, in blindness and passion, such pernicious resolutions need not be here examined, but never before had a legislative body, in the spirit of foul intrigue, planned a resolution so fruitful, and so pregnant with consequences, nor foisted it on the people with so much deceit and untruth. Rap-



idly had the signs increased, during the last years, that, in the population of the free states, a deeply rooted moral reaction and regeneration had set in, in respect to the slavery question; and congress, the members of which, with not too many exceptions, were personally honorable men, had sunk so inexpressibly low in respect to this central problem of the life of the republic that the most arrant rogue might have learned skill in his arts from the mendacious shrewdness with which it systematically misled and deceived the people.

That this was the intention of Douglas and his associates was, with the exception of the repeal of the Missouri compromise, the only thing clear and sadly clear in the repealing clause; as to the rest, it had not, even in their own judgment, and spite of all their efforts, been made clear enough. Clayton called attention to the fact that, under the French rule, slavery legally existed in the whole territory of Louisiana to which Kansas-Nebraska had belonged, a fact upon which, to some extent, the claim of the unconstitutionality of the Missouri compromise was based, since it, presumably, violated treaty obligations which, according to the constitution, were inviolable. Hard pressed by Walker, of Wisconsin, Clayton was obliged to grant that according to that, the repeal of the Missouri compromise—even if the compromise was in itself constitutional, that is if congress had the power to prohibit slavery in the territories, which Clayton, indeed, questioned—contrary to the express declaration of the bill, would legislate slavery into the territories, since according to the common law, by the repeal of the repeal of a law, the original law comes again into force. Douglas and Benjamin, of Louisiana, claimed that that principle was not applicable, here, since it had no force in the civil and statutory law of Louisiana. Whether this was so or not,

we cannot examine in this place. What was essential was, as Walker rightly said, that the views of the friends of the bill, on its legal consequences, were diametrically opposed to one another, on a cardinal point. Badger, of North Carolina, endeavored to remedy this by moving a proviso on the 2d of March by which it was provided that the repealing clause should not put in force any earlier law on slavery.<sup>1</sup>

With this proviso, the repealing clause had, at last, received its definite form, but its want of clearness and its ambiguity had become even greater than before. Badger himself asserted that it did not operate the least material change,<sup>2</sup> but many opponents as well as many friends of the bill were of a very different opinion. In the ranks of the former we may cite Cullom of Tennessee, because he was a sincere and decided slavocrat, notwithstanding he considered the repeal of the Missouri compromise a great wrong and a grave mistake. He declared that if the Missouri compromise was unconstitutional, because, contrary to the stipulations of the purchase treaty, it had set aside the French law in force, it would be equally unconstitutional, if the repeal of the Missouri compromise did not restore the *status ante*, but create a *tabula rasa*.<sup>3</sup> And,

<sup>1</sup> "Provided, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of the 6th of March, 1820, either protective, establishing, prohibiting, or abolishing slavery." Congr. Globe, 1st Sess., 33d Congr., p. 520.

<sup>2</sup> "And now, sir, as I have stated, I wish, in the first place, to show, and, as far as a subject of this kind is capable of it, to demonstrate, that the bill without the proviso had precisely the same legal effect and operation, and none other, as it had with the proviso." *Ib.*, p. 686.

<sup>3</sup> "If, sir, the congress of 1820 had no constitutional power to limit slavery to the line of 36° 30', because it was in violation of the treaty of cession, then the congress of 1854, sitting under the same constitu-



indeed, how could it have made a difference in respect to this side of the constitutional question, that then the will of congress took the place of the French law illegally set aside, and that now squatter sovereignty was to take its place? A part of the southern radicals went much farther, and claimed not only that the principle of the common law above cited would be applicable without the Badger proviso, but expressly demanded, as the right of the south, that it should be applied. Butler could not understand how the equity of the demand could be questioned,<sup>1</sup> and Lindley, of Missouri, said that by refusing to restore the *status ante*, congress would necessarily intervene, while the repeal of the Missouri compromise was based expressly on the principle of non-intervention.<sup>2</sup>

tion, can have no power to repeal all the French and Spanish laws authorizing slavery in this territory, and much less the clause in the treaty with France which protects slavery; yet this is what the Badger amendment to this bill actually does. . . . Who does not see that that Badger amendment abolishes slavery in these territories as effectually as did the compromise act of 1820, and that if the act of 1820 was unconstitutional, this bill must be unconstitutional for the same reason; for there is intervention by congress in both cases, and exactly to the same extent. The act of 1820 prohibited slavery north of 36° 30', where it was formerly allowed by law and treaty; and the act of 1854, if this bill becomes a law, after repealing the act of 1820, proceeds to abolish slavery in the same territory. It is true that the bill provides that the question whether slavery shall hereafter be established in this territory shall be decided by the future inhabitants of the territories, but the Badger amendment takes away all protection to the property of the citizens of the south emigrating with their slaves to this territory, by nullifying the treaty and laws which, after the repeal of the Missouri compromise, would have been in force, and would have protected slave property. And this is called non-intervention!" *Ib.*, App., p. 541.

<sup>1</sup> *Ib.*, p. 291.

<sup>2</sup> "The Badger proviso establishes the principle of intervention. It does not restore the territories to the condition, in respect to slavery, which they were in before any congressional action on the subject. A plain repeal of the Missouri restriction would do this. What stat-



Barry, of Mississippi, on the other hand, thought that there was no necessity of taking the affair so tragically. His own doubts about the proviso had greatly diminished, since several distinguished jurists had expressed themselves to the effect, that the simple repeal of the Missouri compromise would not put the old Spanish and French laws in force again. But he declared it to be inequitable on the part of the north not to agree that this should happen, for—here the *tabula rasa* disappeared once more which it was pretended the compromise of 1850 had created, and truth again was in honor, because the precedent could be used against the north—it had not granted in due time that the Mexican laws were repealed in Utah and New Mexico.<sup>1</sup> Clayton, however, found no consolation in the fact that the opinions of jurists differed as to the legal effects of the simple repeal of the Missouri compromise. He insisted that the bill had by the proviso undergone a material alteration and called attention to this, that the south, in view of the future annexation of Cuba should take heed how it created a dangerous precedent.<sup>2</sup> But Caskie, of Virginia, finally showed that all these gentlemen had agitated themselves in vain, since the proviso by no means asserted what they had discovered in it. There was not a word in it to the effect that the older laws should not come into force again but only that this law did not put them in force again; in respect to this question also, congress main-

ute, I ask, is it which prevents the laws of slavery, existing in these territories prior to 1820, from being put in force—not the act of 1820, for that is declared to be inoperative and void, and by some contended to be so, *ab initio*. Then it must be the Badger proviso, which declares, in express terms, that those laws shall not be put in force. That, sir, I call intervention." *Ib.*, p. 796.

<sup>1</sup> *Ib.*, p. 618.

<sup>2</sup> *Ib.*, p. 760.

tained absolute neutrality and was absolutely passive.<sup>1</sup> That was, indeed, the only correct interpretation of the wording of the law, and hence Weller of California was perfectly right, when, at the very beginning of the discussion, he said, speaking of this question, that it signified nothing that the friends of the bill harbored the most different views of the legal consequences of the simple repeal and of the Badger proviso in regard to the older laws, for the federal supreme court would decide which opinion was the correct one.

Thus this last amendment and clearing up were in perfect keeping with all previous ones. Knowingly, and to some extent industriously, the obscurity was made deeper, and the diversity of views among the originators of the measure had become greater and more many-sided. They had summoned all their wit to give a law of the most immense importance and scope the form of an enigma that

<sup>1</sup> He (Millson of Va.) considers it a positive declaration or enactment on the part of his congress, that there shall be no revival of any law relating to slavery, which may have existed in the territory which we propose to organize under the governments of Nebraska and Kansas. Now the bill says no such thing. It only provides, "That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th of March, 1820, either protecting, establishing, prohibiting, or abolishing slavery. In other words, not that the laws in question shall not be revived, but simply that we do not undertake to revive them. Any vitality or force which may be inherent in them, is left unimpaired and untouched. If they come into being *outside* the bill, well and good. There is nothing to interfere with them. We only agree that we will not construe the negation of a prohibition, into the affirmation of a protection. We do not say that the laws in question shall not live again, but we say that, living or dead, this bill leaves them as it finds them; it only does not re-enact them. Congress does not propose now to legislate upon, or disturb them, but steers clear of them, and declines to meddle with them in its present action." *Ib.* p. 1145.

had no solution,<sup>1</sup> for the originators of the law had been able to come to an understanding on its negative side, only on condition that they renounced every attempt at an understanding of its positive side. Nothing, absolutely nothing, was clear and undoubted in the long repealing clause, except that the Missouri restriction should henceforth be "inoperative and void." About this double-pointed thorn was wound into a Gordian knot, a series of insinuating, double-meaning sophisms, half-truths and skillfully concealed contradictions, the disentanglement of which the federal supreme court might undertake, if it wished to bear the responsibility and odium thereof or could not withdraw itself therefrom. But whatever the federal supreme court might decide or not decide, the thorn forced itself deeper and deeper in the flesh of the people south as well as north of Mason and Dixon's line, until it had to be drawn out with an heroic effort, to keep it from reaching the very citadel of life.

<sup>1</sup> The grey-haired Benton, whose language had lost nothing of its drastic sturdiness, said of the bill: "Three dogmas now afflict the land: *videlicet*, squatter sovereignty, non-intervention, and no power in congress to legislate upon slavery in territories. And this bill asserts the whole three, and beautifully illustrates the whole three, by knocking one on the head with the other, and trampling each under foot in its turn. Sir, the bill does deny squatter sovereignty, and it does intervene, and it does legislate upon slavery in territories; and for the proof of that, see the bill; and see it, as the lawyers say, *passim*; that is to say, here, and there, and everywhere. It is a bill of assumptions and contradictions—assuming what is unfounded, and contradicting what it assumes—and balancing every affirmation by a negation. It is a see-saw bill; but not the innocent see-saw which children play on a plank stuck through a fence; but the up and down game of politicians, played at the expense of the peace and harmony of the Union, and to the sacrifice of all business in congress. It is an amphibological bill, stuffed with monstrosities, hobbled with contradictions, and Badgered with a proviso." *Ib.*, p. 560.



## CHAPTER VII.

## THE KANSAS-NEBRASKA BILL. CRITICISM OF THE BILL.

The drawing of the slavery question into the bill for the organization of the territory of Nebraska, which was so complete a surprise, was originally intended, as we have seen, to be only a tactical manœuvre. Douglas wished to avert the injury which threatened the party because of the attitude assumed by the president towards the Softs of New York. The first condition of the success of his plan was, of course, the emphatic co-operation of Pierce. But Pierce's co-operation, he could reckon on with certainty only because his procedure subjected the president to a pressure from which the latter could not escape except at the expense of a rupture with his southern patrons. If this had not been the case, it might easily have happened that Douglas would have been poorly thanked for his labor of love, for at the head of the cabinet stood the man whom the Softs looked upon as their standard bearer. Marcy, of course, could not be greatly edified by the project of the ambitious head of the Young American faction, and Pierce rightly considered him the strongest pillar of his administration. His advice, therefore, would presumably have been controlling, if he had given it with all his influence, and if the president had really had freedom of choice. The former had to be avoided and Pierce made entirely clear that the latter was not the case, in order, if possible, to prevent a breach with the secretary of state, for Douglas appreciated his importance as a

statesman and party leader sufficiently not to force a breach. The possibility of one did not permit him to waver or delay a moment; but if the president were forced to choose between him and the head of his cabinet, the latter would be obliged formally to take the initiative.

Marcy was not drawn into the conferences which Douglas and his assistants held, on the 21st and 22nd of January, with the president. At the request of the latter, they had, indeed, subsequently gone to the secretary of state to hear his views, but Pierce had already bound himself, as he had formulated the fatal paragraph in whole or in part and copied it in his own hand. Douglas who had taken the paper with him, in order to be fully secure, thought best to confine himself, in dealing with Marcy, to what politeness demanded of him. By accident, he did not meet Marcy at his house, and did not consider a second journey necessary. A resolution which was destined not only to determine the fate of the administration, but on which, perhaps, the whole future of the republic depended, was not communicated to the secretary of state until the moment that it reached the senate in the form of a motion.<sup>1</sup>

When it became known what a mischievous piece of work had been done in the White House that Sunday, the Softs of New York, held a consultation at Fenton's house, as to the position they should assume towards the intrigue. Fenton was sent to the president to endeavor to change his views. Instead of listening to rational representations, Pierce was only chagrined that the Softs were dissatisfied although he had remembered them so richly in the distribution of offices. The conversation led to no result. Fenton declared that he could not act contrary to his con-

<sup>1</sup> I here follow Wilson's account, which is based on Fenton's communications. *Hist. of the Rise and Fall of the Slave Power*, II., pp. 282, 283.

victions, in this question, for the sake of government patronage, and Pierce requested him to think again before he joined the opposition to the administration because of a measure which was evidently based on Democratic principles.

With the secretary of state, Fenton had not much better luck. Marcy, too, declared the "principle" to be democratic, and only considered it questionable whether such an application of the principle was proper in this case. But he could not conceal his disappointment, and, in the course of the conversation, confessed that he had not been consulted. He said that if Fenton had come to a resolve, it was useless to talk of the matter any more. However, a few days after, he invited some trusted members of congress to his room, to hear their views as to whether, under the circumstances, his remaining in the cabinet was desirable. They expressed themselves in favor of his continuing in it, since, otherwise, the Hards would become sole masters of the field. Marcy remained, and, during the entire struggle over the bill, endeavored to maintain as far as possible the part of a spectator.

If his advisers had not thought merely of the petty, selfish interests of their faction, but had wished to be understood as meaning that Marcy should endeavor, to the extent of his ability, to keep Young America in check, they were bitterly disappointed. They would have served the interests of the country and those of Marcy himself much better, if they had given him the contrary advice. Whether he would have followed it we need not inquire. But if he had followed it, it is probable that much evil would have been averted, and certain that his name would have shone with greater brilliancy in the history of the country. If he had been penetrating, courageous, and unselfish enough to subordinate all other considerations to



this question and to act in accordance with his real conviction,<sup>1</sup> that is if he had withdrawn from the cabinet, giving an unreserved exposition of the grounds of his action, he would have destroyed the network of intrigue in the very beginning. This would, indeed, have excited a storm, in which the Democratic party might easily have gone to pieces, but the situation would immediately have become so clear that the people would never again have allowed deception and deceit to become the pilots of the ship of state. The catastrophe, which was unavoidable under all circumstances, might have been accelerated, but it would have been less frightful and Marcy would have had the best prospect to be able to play the part which fate had reserved for an unknown lawyer from Illinois. But Marcy had not the penetration and character necessary to use his short hour, when events brought the crown of immortality within the reach of his hand. He and his friends considered it possible and right to enter into an agreement with their convictions and their consciences on the one hand and their obligations and interests as party men on the other.

Pierce, too, firmly cherished, for a long time, the illusion that this piece of jugglery could and would succeed. The Washington *Union* of the 5th of February, had adopted a declaration of the Detroit *Free Press*, that the administration was fully and entirely in favor of the Kansas-Nebraska bill, and was resolved to look upon it as a test of party fidelity.<sup>2</sup> But, on the 5th of March, the

<sup>1</sup> "On the 17th of February, the Albany *Argus* charged that Mr. Marcy had openly expressed himself against the repeal of the Missouri line. The *Atlas* tacitly admitted the charge." The New York *Hards and Softs*, p. 52.

<sup>2</sup> "The territorial bill reported by Mr. Douglas is an administration measure. Every true Democrat and every true patriot in congress will vote for it. . . . It erects a platform upon which the Demo-

*Union* thought, that it would be neither wise nor just to excommunicate those Democrats who had agreed to the compromise of 1850, only after it was passed, because of their opposition to the Kansas-Nebraska bill.<sup>1</sup> Pierce, therefore, saw no reason why the game played in 1848-1852 could not and should not be repeated: if the Kansas-Nebraska bill could be forced through spite of the refractory, the latter might, to keep the party intact, count on being forgiven, provided they subsequently submitted to the accomplished fact.

It is all the more surprising to find that the president had so shallow a conception of the situation, since the Whigs, as a party, had three weeks before, succumbed under the weight of Douglas's bill, although they, to a greater extent than the Democrats, had made the maxim "to agree to disagree" their motto. The *National Intelligencer* which was wont to be looked upon, so to speak, as the official organ of the party, argued zealously against the bill. The southern Whigs feared it would be inferred from this that the Whigs intended to treat the matter as a party question, and resolved to prevent that, in a very effectual but very unusual way. On the 16th of February, Badger, in accordance with a caucus resolution, announced to the senate that the Whig senators from the southern states were, without exception, in favor of the repeal of the Missouri compromise.<sup>2</sup> When the senate

cratic party of every section can stand, and will stand. It is a test that will determine who are patriots and who are sectionalists."

<sup>1</sup> "We are aware that there are other Democrats who objected to the compromise of 1850, when it passed, but who have since acquiesced in it, who are not prepared to sustain the Nebraska bill. In our judgment it would be as unwise as it would be unjust to regard and treat such opponents of the measure as thereby abolitionizing themselves."

<sup>2</sup> Congr. Globe, 1st Sess., 33rd Congr., App., p. 150. Bell of Tennessee afterwards passionately protested that so far as he was concerned



on the 25th of May, contemplated putting its seal on the ruinous deed, Wade gave expression to the feelings with which the northern Whigs had received this unexpected announcement, in a forcible and worthy manner. Before the monstrous motion of the territorial committee was discussed at all, he said, the southern Whigs had, behind the backs of their northern party associates in secret conclave with the old opponents of the party, resolved to deprive the north of its inheritance. It had not been considered necessary to ask the opinion of even a single statesman of the north; the latter had only been notified by the resolve of the south. In future, therefore, the south would have to give up speaking of the sectional endeavors of the north: it had, as a section, declared war on the institutions of the north and the southern Whigs had taken the initiative in that declaration. Before they did this, they must have resolved to break off forever all further connection with their northern party associates, and, in doing so, they had fully succeeded: they should never again speak of a national party.<sup>1</sup>

Badger was not justified in making that assertion. In the long debate which was had on this, Badger said: "I certainly thought I was requested by the meeting of Whig senators, then and there present, of whom my friend from Tennessee was one—not only authorized, but requested—in order to anticipate the delay which must take place before they could either vote or speak on the subject, that whatever course of reasoning we might adopt in bringing us to the conclusion, in support of the bill, we were all united." *Ib.*, p. 941.

<sup>1</sup> "The fate of this great territory is to be fixed without consultation with the north. No northern statesman is thought to be of sufficient consequence to be taken into council. All is silent as the grave; and the first the poor deluded northern Whig is permitted to hear on the subject is, the fatal announcement—which I shall never forget—made on the floor of the senate by the senator from North Carolina, that the southern Whigs were a unit on the subject of repealing the Missouri compromise. And this before there had been any debate or deliberation on the subject; all done up in secret conclave, in close



Bitter as was the charge made by Wade against the southern Whigs, every word of it was true; but he did not say all that should be said, if a just and correct judgment was to be passed. Dixon had, indeed, first asked the repeal of the Missouri restriction, but Douglas had paved the way for him by his report of the 4th of January. The Whig senators of the south had appeared as a sectional party; but the chief command of the whole campaign was in the hands of a northern senator. An advantage was to be procured to the south, but a northern president, in the

and familiar council with the deadly enemies of the Whig party. And there, in secret conclave, a measure is fixed upon which will give the slaveholding states the supremacy in this nation in all time to come.

"Mr. President, after all this, I hope we shall hear no more of sectional movements on the part of the north.

"This was a declaration of war on the institutions of the north; a deliberate sectional movement by the south for political power, without regard to either justice or consequences.

"Now, Mr. President, I have no doubt that the southern Whigs of the senate, before entering on a scheme so unjust to the north, had made up their minds to sever forever all further connection with their northern brethren. No doubt the question was asked, what shall we do with the northern Whigs? Shall we consult them, or shall we cut them off from this great empire behind their backs? Shall we consign their inheritance to slavery before they know it? All these questions were answered in the affirmative. They must have made up their minds to sever all further political connection with us; and most effectually have they done it. After this I hope to hear no more from them of national parties. They have by their own act rendered such a thing impossible.

"But the south have deliberately made up that issue. They have sought this great sectional advantage. They have put the north at defiance, and declared a sectional war for the mastery; and I accept the issue thus tendered. Slavery must now become general, or it must cease to be at all. And, Mr. President, let it always be understood, that this sectional strife was commenced by the south alone—aye, by southern Whigs. They have forced it on the north without their knowledge, and against their will. Should evil result from this movement, the south, and not the north, are responsible for it." *Ib.*, pp. 763, 764.

name of the Democratic party and of Democratic principles, requested the north to sacrifice its right on the altar of the fatherland, as that right was an injustice. And so it happened that to the most violent denunciations from more than one southern mouth, the claim could be opposed: the south, after all, cares little for the matter, but it has no occasion to reject the free offer of the north.<sup>1</sup>

This answer had unquestionably a certain positive foundation, and was incontestably dictated by honest conviction. Even Benton spoke in this way, although he opposed the repeal of the Missouri compromise with as much energy as the most decided Free-Soilers, but with arguments different from theirs.<sup>2</sup> Spite of this, however, one only needed to

<sup>1</sup> Clayton, who spite of all his slavocratic zeal, preserved a more honorable attitude than most members of the majority, said on the 1st of March in the senate: "This proposition to repeal the Missouri compromise line did not originate with southern men. It comes from the north. The senator from Illinois (Mr. Douglas) is its reputed author. The committee on territories, of which he is the chairman, composed of a majority of northern men, authorized him to report it. We know that a majority of northern senators here, concur with him in pressing its repeal upon us. No less than sixteen of them indorse the repeal; and the opponents of the measure in this body from the north are but twelve, all told. The southern senators, generally unapprising, as I understand, before the measure was sprung upon us, of the intention to disturb this line of division between the north and the south, have received this proposition, not made it. They have not refused to accede to it. With a vote almost unanimous they will accede to it, especially as it is known to be supported by a northern president, and a cabinet composed of a northern majority. I did not ask for it; I would not have proposed it; and I may regret that it was offered, because I do not believe it will repay us for the agitation and irritation it has cost. But can a senator, whose constituents hold slaves, be expected to resist and refuse what the north thus freely offers as a measure due to us?" *Ib.*, p. 383.

<sup>2</sup> "By that compromise the south yielded all the territory north of 36° 30' to freedom, but if the north wants to surrender it back again to slavery, the south will not refuse to take it." *The New York Tribune*, February 6, 1854.



see things as they really were, in order to recognize that, in the main, the weight of the answer was only an apparent one. To the honor of the south be it said, there was to be found among its representatives one man who dared to expose the hollow sophism regardless of any consideration. Who, asked Cullom, empowered Douglas to make that offer?<sup>1</sup> With what right were Douglas and his associates called the north? Clayton answered to this: the majority of the northern senators force the bill on us, and we must assume that they correctly represent the opinion of their states. No! that must not be assumed. There was only the formal right to act as if that were so, but if people were honest, they should make no use, in this case, of the formal right, because the events of every day announced, in thunder tones, that these gentlemen did not correctly represent the public opinion of their states. Moreover, people were not authorized to estimate the public opinion of the north according to states, but they should ask the question what the population thought, and, when this was done, the majority of the senators of the northern states shrank to the representation of a minority.<sup>2</sup> But if it was wished to infer the opinion of the represented from the

<sup>1</sup> "But it is said that the north has volunteered this offer of a repeal of the Missouri compromise to the south. I demand to know, in behalf of my constituents and my common country, who executed a power of attorney to the senator from Illinois, the author of this bill, to make this offer, to reopen the fountain of bitter waters, and to renew the dangerous agitation which has heretofore well nigh severed this glorious Union?" *Congr. Globe*, 1st Sess., 33rd Congr., App., p. 535.

<sup>2</sup> "But, sir, has the north made this tender? In the other wing of the capitol a majority of northern senators, representing a constituency of eight million seven hundred and sixty-three thousand seven hundred and fifty, voted against it, while the fourteen votes in its favor represented a constituency of only four million five hundred and seventy-eight thousand five hundred and seventy-three, but little more than half as many as the opponents of the bill." *Grow of Pennsylvania*, in the house of representatives, May 10. *Ib.*, p. 974.



course of the irrepresentatives, why did people look to the senators who were chosen by the legislatures, instead of inquiring how the representatives chosen directly by the people thought? Could a majority of these, too, be found to force the bill upon the south, or was it not known very well that, in the most favorable case, it would require a great effort to win over a sufficient number, in order, together with the serried ranks of the representatives of the south, to constitute a majority?<sup>1</sup>

It was true that the south likewise had been surprised by the proposition to repeal the compromise of 1820, and that it preserved, for the most part, during the whole contest, a certain equanimity,<sup>2</sup> which strikingly contrasted with its excitement during all previous struggles over the slavery question. But that, in presence of these facts, it pretended to look upon the few dozen of northern politicians in congress who had dextrously designed the plot or allowed themselves to be drawn into it, as the north, showed

<sup>1</sup> Grow continued: "And at the first vote in this house, on referring the bill to the committee of the whole, of the one hundred and two votes in favor of the reference, fifty-four were Democrats, forty-four Whigs, and four Free Soilers, representing together a constituency of ten million two hundred thousand, while the twenty-three votes against it represented a constituency of only two million three hundred thousand."

<sup>2</sup> The New Orleans *Bee* writes: "So far as the south is concerned, something not very far from indifference is felt upon the subject. Let the Nebraska bill be rejected to-morrow, and the south will sleep quite as sound at night as before. We shall have no revival of the treasonable discussions of 1850. . . . With the exception of the Washington *Union* and a very limited number of journals that seem to foster Mr. Douglas's ambitious designs, and to mount the hobby which he now bestrides, the entire southern press is occupied with Nebraska no further than as a somewhat interesting topic of controversy in the national legislature. Of the tremendous excitement of 1850 there is not even a scintillation left." The New York *Tribune*, March 4, 1854. The *Tribune* adds: "We believe the *Bee* is right in this view of the case."

that their equanimity should not be considered indifference. The reasons already cited, and which made its possession of Kansas of the greatest importance to it, because of the geographical position of the country, may not have been clear to the masses of its population. But the most insignificant man in the south, even if he could not fully assign the reasons therefor, felt that the abolition of the Missouri restriction was a question of the very first rank, whether the slavocracy reaped a direct material advantage from it or not.

Many of the most zealous advocates of the bill said they were fully convinced that slavery would never be able to take a firm hold in Kansas, to say nothing of Nebraska, because slave labor would, considering the climatic conditions that obtained there, be too unprofitable. And, indeed, it was already perceptible that facts confirmed this expectation, in the main, but if they did, it was not because of the ground assigned, or was so, only to an extremely limited extent. According to the census of 1850, the number of slaves, in slave territory north of the Missouri line, amounted to nearly 900,000. Kansas had essentially the same climate, and it was universally believed that its soil would be peculiarly adapted to the cultivation of hemp and tobacco, which, according to the prevailing opinion, could be carried on best, or only, with slave labor. It was moreover, very well suited for slave raising, a business which, as the long experience of Virginia had proved, was much surer and much more remunerative than the cultivation of tobacco. If the slaveholders had had to reckon only with soil and climate, it was to be expected that they would build a very comfortable nest for themselves in Kansas. But even if it was quite undoubted that the foot of a slave would never tread the soil of Kansas, the north would have had to enjoy a high degree of ingenuousness,



if it could be made to believe that the south had only an academic interest in the abolition of the Missouri compromise. Could it be that people believed the "manifest destiny" of the country, was accomplished with the acquisition of land made in the Mexican war? In the south, people were almost unanimously of the opinion that the Union would now extend greatly until it reached the limits predetermined for it by fate; and in the north this view was held in so much favor, that it was plain, that on the first favorable opportunity an energetic effort would be made to extend its limits. But if further territorial acquisitions were to be made, was it not eminently important that the principle should be established, that the territories, in respect to slavery, should be as independent of congress as the states were? And even if the annexation projects of the south were never realized, it would have received, in the repeal of the Missouri compromise, a draft on the future whose value was really not to be under-estimated. The rights guaranteed by the compromise of 1820 had for long years stood in the eyes of the whole north as holy and as inviolable as the constitution itself.<sup>1</sup> But if now its politicians could dare, unpunished, to hand them over to the slavocracy, was there any demand whatever the latter might not make? The moral element alone must have made this victory a triumph of greater magnitude and importance than any it had hitherto achieved. Moreover, it would legally have been scarcely possible to refuse any of

<sup>1</sup> Webster had said in his speech of the 7th of March, 1850: "And I now say, sir, as the proposition upon which I stand this day, and upon the truth and firmness of which I intend to act until it is overthrown, that there is not at this moment within the United States, or any territory of the United States, a single foot of land, the character of which, in regard to its being free territory or slave territory, is not fixed by some law, and some irrevocable law, beyond the power of the action of the government." Webster's Works, V., p. 340.



its demands, for if the Missouri compromise was repealed, because of its unconstitutionality, its repeal was in principle the constitutional nationalization of slavery.

To the assurances that the south was at most indifferent and only could not decline the unasked for and unexpected offer of the north, there were opposed other explanations of a very different character. The *Richmond Examiner* demanded the gallows and the wheel for every southern traitor who should abandon the slavocracy, in this decisive battle, for any reason.<sup>1</sup> It, too, pretended to believe that the slaveholders in Kansas and Nebraska would find an invincible antagonist in nature, but it not only acknowledged that this, as compared with the question of principle, was of little importance, but it openly said that the victory in the struggle for principle would lay the Union at the feet of the south. When the bill had been adopted by the senate, it uttered a triumphal shout so wild and so brutally honest that it no longer needed a mind versed in constitutional law, but only self-respect and blood at natural heat, rightly to recognize the importance of the deed.<sup>2</sup>

<sup>1</sup> "Much, nay, almost everything, depends upon the unanimity of the south in this grave crisis. . . . Let us hang, draw and quarter, without judge or jury, the southern traitor that skulks now." Cited in the *N. Y. Tribune* of February 6, 1854.

<sup>2</sup> "This vote establishes the fact, beyond controversy, that the south has never been stronger or more influential, than at the present moment, in congress. . . . The debate and vote upon the Nebraska question have demonstrated that the respectability, strength, influence and weight of the anti-slavery party was never at a lower ebb than at the present moment . . . it affords us pleasure to say that the shackles of the negro were never more firmly riveted than at present. Never has the slave owner felt his grip upon his 'peculiar property' more secure, never has he felt more certain of the protection which is guaranteed to him in emigrating to the territories with his slave.

"Abolition, a lawless, rude, vulgar Cyclopien monster, lies prostrated, for the time, with mangled limbs and rayless eye, the contempt

What the *Examiner* announced in trumpet tones, every southern politician had, from the first, recognized just as clearly as the Richmond journalist, and yet it took a long time for many of them to grow warm in the cause. On the 24th of May, Bell of Tennessee, said, in open session, that all the southern senators with whom he had spoken—Toombs only excepted—had regretted that a motion had been made for the wiping out of the line which had preserved the peace of the country for thirty years.<sup>1</sup> As Bell, after wavering a long time, had joined the opponents of the bill, his testimony in this question is beyond suspicion, and it is apparent from it, that many of these gentlemen remained sober enough not to overlook that the offer called for examination from two different points, and that if it were so examined very serious drawbacks were

and scorn of every honest man. . . . The fangless viper can hiss, but it cannot wound. The south is now potential in the senate, omnipotent with the president, and the speedy passage of the Nebraska bill by the house of representatives, will demonstrate that we have abolitionism in every form and shape under our feet. We have trampled upon a principle, we have gained a victory upon what was equivalent to an abstract principle, for we neither expect or look to the introduction of slave labor into Nebraska and Kansas. . . . In the introduction and support of the Nebraska bill by Judge Douglas, a senator from a free state, and in the support of that bill by northern senators, we have guaranties upon which we can safely rely. . . . The loyalty and faithfulness of northern senators who stood by the south will not be forgotten. Their services will be rewarded by the lasting gratitude of the south, as well as by the substantial honors which she so often bestows upon true and noble friends." The *Richmond Examiner*, March 7, 1854.

<sup>1</sup> "I believe he (Toombs) is the only senator from the south with whom I ever conversed, who thought this was a good thing in itself. Of all other southern senators with whom I have ever conversed on the subject, I do not remember a single one besides who did not deprecate the introduction of this measure of repeal. But they thought that they could not go against it, presented, as it seemed to be, from the north; though they believed no practical good would come to the south from it." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 939.



to be found in contrast with the very attractive advantages it procured. The number of those with whom the former preponderated, either from the first, or after long consideration and doubt, was, indeed, small, but the heaviest blows aimed at the northern conspirators and their southern allies were, in great part, dealt by them.

Cullom had hitherto been an almost unknown politician, but he was a representative of the slave state, Tennessee, and hence nothing that the Sumners, Seward, Chases, Wades, or Giddings could say could, in wide circles of the people, make the same impression as his simple declaration: the only question is whether the south will break its faith and repudiate its honor.<sup>1</sup> Numberless speeches in which the history of the compromise of 1820 and the subsequent events connected therewith were followed into the minutest details, endeavored to deprive this reproach of its force. But the very number and length of these speeches were in themselves a sufficient proof that this was not possible. What could be said to show that the entire people, from the date of the conclusion of the compact until a few weeks ago, had erroneously understood its nature and obligation were not real reasons but pure subtility. People were not concerned, by plain facts, recognized legal maxims and pure logic to defend a view which they had always entertained and advocated, but in the face of decisive facts with which every educated man was familiar to patch up with unscrupulous pettifoggery and from vast and intricate material a plea which might satisfy willing and uncritical hearers, to justify or at least to excuse their own rash action.

It was simply ridiculous, when Douglas, Stephens, Petit,

<sup>1</sup> "I proclaim here to-day that this Nebraska bill presents the naked question of repudiation or no repudiation of the faith and honor of the south, plighted by the act of 1820." *Ib.*, p. 538.



Hunter and many others, proved with serious countenances and a great expenditure of acumen, that the Missouri compromise was no compact at all, because the parties necessary thereto could not be named, and because many other conditions had not been fulfilled. The question was not to decide a civil suit for breach of contract; it concerned an eminently political transaction. The controlling views and interests of the north and those of the south had come into violent conflict with one another, and the conflict was ended by a proposition agreed to by a sufficient number of representatives of both sides in congress, to give that transaction the force of law. That on both sides, among the politicians and the people, the conditions agreed to were not acceptable to many, did not in the least change the fact that this law was a compromise between the north and the south. They had striven with one another and their strife was ended by a law which could have been passed only by the voluntary co-operation of the chosen representatives of both parties. But the law had not only given an actual decision, recognized by the whole people as having legal effect, in respect to the object immediately in controversy, but it contained a provision which went far beyond the concrete case and which, in the opinion and intention of those who had agreed upon the law, was to make it impossible that the same struggle should ever again arise in reference to the object in controversy—the territory north of  $36^{\circ} 30'$ : at this price, the representatives of the north who had voted for the bill, agreed to do what the south wished in respect to the immediate object in controversy, and to secure this latter, the representatives of the south who had concluded the compromise were ready to adopt that provision into the law. But such a settlement is called in politics a compact, and every one of the gentlemen who now protested so

violently against the word, had called the compromise by that name, numberless times. Their sophistry consisted in this, that they desired to make a subtle question of law out of a simple question of fact. A compact had been concluded, and concluded between the north and the south. A judicial definition of the word could change this fact in nothing, for jurisprudence had nothing to do with the question, since the compact was entered into, not according to the constitution, but only under the constitution. If the jurist instead of the statesman whose action is determined not only by considerations of expediency, but governed by obligations of honor, had to utter the decisive word, the question would have to be drawn into an entirely different domain: in that case it would not have to be shown that no compact existed, but it would have to be claimed and proved that the pact was unconstitutional.

Just as untenable were the further arguments intended to prove that the Missouri compromise was on the same level as the most indifferent of laws, and that, therefore, the moral indignation at its repeal was entirely unjustified. Missouri, said Douglas and others, was not admitted into the Union under the law of 1820 which spoke only of the line of 36° 30,' but under a law of the following year, after a new controversy which had been raised over a provision in the constitution of the state, had been settled by a new compromise. If the law of 1820 had been a compact, the north had immediately broken it, by refusing to allow the condition of the south, accepted by it, to come into force immediately, and had even attempted to annul the whole bargain.

Here again the sophistry consisted in this, that a mode of reasoning borrowed from the civil law was applied to a purely political transaction. The contest and settlement



of the year 1820, and the contest and settlement of 1821, were practically not completely distinct transactions, but one question; and hence, in judging of their legal political consequences, they had to be judged as parts of one whole. The constitution of Missouri contained a provision which, in the opinion of the north, was contrary to the constitution of the Union. In accordance with this conviction, it could not allow a part of the compact of 1820, which had reference to the admission of Missouri into the Union, to come into force, until the difficulty created by Missouri alone had been removed. The north had not broken the older compact, because it had forced another compromise, but a new compromise had become necessary by the raising by Missouri of another controversy, in order to allow one part of the older compact to come into force. The compromise of 1820 was, in other words, the condition precedent, and an integral component part of the compromise of 1821.

It was true that a part of the representatives of the north wished to use the opportunity afforded by this new controversy, to bring about the repeal of the detested compact of 1820. But they did not succeed, and it was absurd to make the whole north responsible for their wishes and intentions, in the sense that it had lost the moral right to consider the south bound any longer by the part of the compact which seemed an onus to it. A compact between the two sections was simply impossible, if by such a compact it were understood, that the whole of the population, or at least of their representatives in the federal legislature, should acquiesce in the agreement, and that no part of them should ever attempt to interfere with it. It is in the very nature of the political compromise, that it is entered into by the more moderate elements of the parties thereto and that, on both sides, extremists are averse to it,



and remain averse to it. Hence neither its moral nor its legal obligation is ever affected by the fact that extremists denounce it and seek to destroy it. Its moral as well as its legal obligation remains intact, so long as the joint number of the moderate, on both sides, is great enough to defeat such attacks, and in all new cases falling under the compromise to give full force to its stipulations. Hence, it was absolutely unjustifiable to say that no moral reproach could be made to the south because such and such representatives of the north had at this time or that, lamented the compact of 1820, and tried to break it.

The north had not only kept all the promises it had made in the compact of 1820, but it had done more. The compromise was silent concerning the territories south of the Missouri line, and hence, under the compromise, there was no undoubted legal obligation on the part of the north to permit slavery in them, and to admit them into the Union as slave states. It was perfectly entitled to say that this question had been left entirely open and was to be decided, in every individual case, by the considerations which should seem controlling to the majority of congress; and the south could, at most, claim that, according to the spirit of the Missouri compromise, these territories were to be looked upon as its share in the territorial possessions of the Union. These were not left to the south, without any objection whatever, but a sufficient number of northern representatives had always stood by it to enable it to carry its claims without exception and without any really great difficulty. Hence the north had not only been true to the letter of the compromise, but it had always acted in accordance with what its spirit, as interpreted by the south, demanded. Hence it was not only absurd but base, when it was sought to infer a breach of the compact from the fact that the north had occasionally,

as in the extension of the limits of Missouri, gone a great way beyond the letter, in favor of the south. And if it was not base, it was absurd to ground its complaint on the fact, that the north had not observed the compromise in respect to the land acquired from Mexico; for not only could the compromise not affect the latter at all, because it had come into the possession of the Union almost thirty years later, but the true spirit of the compromise unquestionably condemned the claims of the south, because there was question here of the land which had already been handed over and consecrated to liberty by law. But it was entirely absurd, because congress had not divided the Mexican acquisitions between slavery and free labor, i. e., because the north had not here immediately asserted its right in an indubitable manner, to declare its unassailable right in other territory to be forfeited. This translated into the plain language of everyday life meant: because it had not done the pleasure of the south in one thing completely, it must surrender what the south had obligated itself never to claim. If the compact was now to be repealed, without a breach of faith and fidelity, the *status ante* had, as Seward rightly said, to be restored.<sup>1</sup> This was impossible and hence, after the south had received all

<sup>1</sup> "Let it be granted that, in order to carry out a new principle recently adopted in New Mexico, you can supplant a compromise in Nebraska, yet there is a maxim of public law which forbids you from supplanting that compromise, and establishing a new system there, until you first restore the parties in interest there to their *statu quo* before the compromise to be supplanted was established. First, then, remand Missouri and Arkansas back to the unsettled condition, in regard to slavery, which they held before the compromise of 1820 was enacted, and then we will hear you talk of rescinding that compromise. You cannot do this. You ought not to do it if you could; and because you cannot and ought not to do it, you cannot without violating law, justice, equity, and honor abrogate the guarantee of freedom in Nebraska." Congr. Globe, 1st Sess., 33d Congr., App., p. 152.



that was granted it in the compact and much more, its refusal fully and completely to fulfill the obligations it had entered into, could not be reconciled with the demands of honor and right by any reasoning.

The case was too simple to warrant the attempt, with such an expenditure of time, trouble and acumen, to argue away the fact that the repeal of the Missouri compromise was a legislative act *sui generis* and cast a stain on the honor of the south. The only thing correct was that the Missouri compromise did not differ formally from other laws and that, formally, therefore, there was nothing in the way of its repeal. That was not at all questioned, and it was only asserted that this was entirely irrelevant. Its political character assigned it an exceptional place and endowed it with a sacredness and a binding power which no other law could claim. Legal arguments could change this in nothing, even if they were as weighty as those brought forward by Douglas and his associates were weak and hollow. It was, indeed, an exaggeration for Bell to say, that it had preserved the harmony of the sections for thirty years.<sup>1</sup> The struggle had continued, become continually intensified, and continually made the disruption of the Union appear possible. But men had always come again to an understanding, and this had been possible because the immense majority of the politicians as well as of the people had looked upon the agreement of 1820 as inviolable, under all circumstances, and because the greater the danger became the more firmly did they cling to the thought that as one escape had then been found, another could and must be found. If the Missouri compromise were now repealed, the whole relation of the two

<sup>1</sup> " . . . the restriction of 1820 . . . which gave repose to the country and preserved the harmony of the sections for a period of thirty years." *Ib.*, p. 939.



geographical sections, so far as it depended on free agreements under the constitution, that is, so far as their relations to one another had found a concrete and legally fixed shape within the limits given by the constitution, would be put on an entirely new and essentially different basis. Not only would a point of interrogation take the place of the fixed law, in the territories lying north of the Missouri line, a point whose legal character permitted the most various interpretations, none of which allowed a sure conclusion as to the answer which the question, in each concrete case, would receive by the actual development of circumstances; but everything which had relation to the slavery question would be unsettled in the consciousness of the people. The direct consequences would, indeed, have been grave enough to keep every patriot whom passion or preconceived opinion had not blinded, from laying hand on the work, even if he honestly doubted its constitutionality. But incomparably more important was the direct consequence, for it was the cutting of the cable which held the ship of state in its anchor-ground.

Could the slavocracy find its account here? Was it not, in the first place, to the conservative feeling of the northern population that it owed its success hitherto? Was it not a great mistake to allow itself to be misled by a few rash politicians, violently to destroy this conservative feeling by an act—whether with reason or not—which the majority of the northern population looked upon as a gross violation of law, a shameful breach of faith and an unparalleled injury? But no one could be deceived as to this, that there was here no offer or tender of the north, but only the plotting and intriguing of a handful of politicians. And when the southern representatives accepted their offer, they resolved with full consciousness, on their own and their sole responsibility, in conjunction with the

ambitious schemers, cowardly dough-faces and small-brained doctrinarians among the northern representatives, by base intrigue and a plot hatched in the dark, to do the deed which since the adoption of the constitution was more pregnant with consequences than any which congress had been asked to do. Douglas had received no authority to make the offer and the southern representatives had not been compelled by their constituents to claim the offer from the north. It needed but one word from the representatives of the south to close Douglas's mouth before he had brought them into a forced position in respect to their constituents, were it not that they had, from the first, been willing, spite of many reasons to the contrary, to strike the fetters of the Missouri restriction from the slavocracy even by plots and intrigue. Benton's sturdiness was entirely in place when he declared that it was a lie to say that his agreement to the compromise law of 1850 was a vote for the repeal of the Missouri compromise,<sup>1</sup> and, just as little as he did anyone else believe, then, that he was voting on that question. And Cullom demanded in vain, that even one memorial of the people might be named which could be cited as a pretext for the motion of the territorial committee.<sup>2</sup> The "finality" had been a

<sup>1</sup> "Whoever says that I intended the repeal of the Missouri compromise when I voted for the compromise measures of 1850, lies, sir; he tells a lie, sir." *The N. Y. Tribune*, February 6, 1854.

<sup>2</sup> "Mr. Chairman, let me ask you, and let me ask every member here, if a voice or a petition has come up from any quarter of this Union demanding a repeal of that ancient compromise? I have heard no voice from my constituents, nor from the state which I in part represent, demanding its repeal. No public meeting of the people, no primary assembly, no convention, no legislative body has called for this measure. No individual citizen has invoked your interference in this matter to break up and trample down that compromise of 1820. I demand here, this day, to know if a single voice from the people had reached this hall demanding a repeal of the Missouri compromise be-



delusion, but that the struggle between the two sections should be taken up, at this moment, and in this form, was the work solely of a few politicians, planned and executed to further their own personal ends and the supposed interests of the party. The man who wishes to be convinced that republican democratic institutions are no guaranty, in themselves, that the shaping of political affairs is not always the direct outcome of public opinion, needs only to study the history of the Kansas-Nebraska bill. It would be difficult to mention a second instance, in which a great people, as in this, allowed a measure to be foisted on them, by a handful of demagogues and trading politicians, under such empty pretexts and from such wretched, selfish motives, a measure by which they cut loose from one of their greatest principles and which was destined to exert a material influence on one of the most noteworthy and important processes of development in the history of the world. The people had just begun to feel comfortable on the downy bed of "finality," and in a night they allowed themselves to be deprived by slight of hand, by Douglas and his co-conspirators, of the compromise of 1850 and the compromise policy to be demolished, on which, since the origin of the Union, the whole history of their political development and especially that of the slavery question, had rested.

When nations, in the chess-play of the political ambitions of their chosen leaders allow themselves to be misused in this way, there is never wanting, in accordance with the law of historic growth, a bitter humor in the tragedy, which places folly and guilt in their right light. Here, the humor lay in the fact that the territorial committee

fore the introduction of this baleful measure? Now, sir, we do hear this call, but not from the people; and it sounds on our ears like a death-knell." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 538.



of the senate declared eternal peace to be the sublime aim and the certain fruit of its motions, a peace which could never again be disturbed by anything or anybody. This reminds me of those strolling companies of athletes and rope-dancers who are wont to have a "very last" exhibition succeed their "last," and a "positively last" their "very last." "Finality" had triumphed in both parties, and the minority who did not recognize it as a political dogma had made no endeavor to disturb it, but its chosen and most distinguished representatives united with cold blood and full deliberation in the demand to destroy it, in order to put a "positively last" settlement of the slavery-question in its place. It was strange to see southern Whigs and northern Democrats uniting to carry this new blessing to the people, for they were not acting under the pressure of danger to the Union; it was still stranger that a disturbance of the peace should not have been awaited in order to substitute the most perfect for the perfect, but statesmanlike wisdom and patriotism demanded that the people should throw themselves out of a state of peace into a wild struggle, in order to achieve a peace that was absolute. All old wounds had to be torn open anew, passion fanned more violently than ever, faith in the political honor and trustworthiness of opponents destroyed, the difference of principles made more clearly and sharply present to the consciousness than ever before, in order, in the real sense of the word, to drive the slavery question out of the world forever. Adopt this bill, and never again will anyone be able to tell, from a political speech, whether the speaker comes from a slave state or from the free north, said Douglas, and the whole chorus enthusiastically corroborated it.<sup>1</sup> The special providence

<sup>1</sup> Douglas: "It will have the effect to destroy all sectional parties and sectional agitations. If in the language of the report of the com-

which watches over the United States must have now remembered it with a special era of signs and wonders, for the people needed only to invert all the laws of logic and of healthy common sense, in order to be sure, that they were walking in the way of salvation.

But all this could not be believed simply on the word of these gentlemen. They had to show wherein the wonderful power of the bill lay and that they were ready to do. The "principle of the bill" was the great magic word which was to open the eyes of honest doubters and to lay low the factious and the fanatics.

What now was the great principle? "Non-intervention and popular sovereignty," unanimously answered the friends of the bill, that is that the principle of the absolute right of self-determination, which was politically and socially-politically the vital principle of the Union, should be fully applied in the territories, so that they might

mittee, you withdraw the slavery question from the halls of congress and the political arena, and commit it to the arbitrament of those who are immediately interested in and alone responsible for its consequences, there is nothing left out of which sectional parties can be organized. . . . Withdraw the slavery question from the political arena, and remove it to the states and territories, each to decide for itself, such a catastrophe (the disruption of the Union) can never happen. Then you will never be able to tell, by any senator's vote for or against any measure, from what state or section of the Union he comes." *Ib.*, p. 333.

Cass: "We shall find ourselves at the goal, the prize of Union and tranquility won beyond the reach of future agitation, however mighty may be the progress of our confederation over the continent whose destiny is closely interwoven with our own." *Ib.*, p. 279.

Pettit: "If you pass this measure, my word for it hereafter you will not know, from the speech of a man in either house of congress, whether he hails from the Rio Grande, the savannahs of the south, or from the extreme north. You will only know him as a Whig or a Democrat. . . . Pass the bill, and all slavery excitement will be at an end; there will be no foundation on which to rear the fabric of further discord and further contention." *Ib.*, p. 218.

regulate their domestic affairs entirely independently of congress and according to their own judgment. If this were really a great principle, and the principle which ran so dominantly through the whole political and social political life of the Union, that it had to be fully applied in the territories, then the bill was a real monstrosity, because it violated that principle at every step. Leaving the slavery question out of consideration, the territories had, in no respect whatever, been treated as politically of age, but as had always been the case, they were looked upon as wards of the federal government who stood in everything under its control and its direct or indirect influence, and who could be granted only so much freedom of movement as was necessary to allow them gradually to mature into independence. The population were not authorized by congress to organize the territories, but they received their organization ready-made from congress, and had to get along under the organization so received, whether they liked it or not. And these acts of organization differed essentially from the state constitutions, not only in the fact that they were not products of the territorial will, but were decreed. They not only established the forms in which the life of the territories, as commonwealths, had to move, but the persons who held official power in them, were, to a great extent, appointed by the federal government, and the population and their representatives had not been granted the least influence in the choice of them. Governors and judges were entirely independent of the population; the president nominated them and they were legally and *de facto* organs of the federal power. Only the legislative body proceeded from the free choice of the population, but even it was greatly limited, in many respects, in its operation.<sup>1</sup> It was not

<sup>1</sup> The bill itself ignores the principle in every line. Instead of



very refined but it was certainly entirely correct when Washburne of Maine said that one might as well expect to find milk in a male tiger, as non-intervention in the bill.<sup>1</sup>

What was new in the bill was not, of course, the provisions indicated, but the principle of non-intervention,

recognizing the governor whom the people have elected, and for the term he was elected, the president appoints that officer, and his term is fixed at four years. He takes the census, districts the territory, and assigns the number of representatives each is to have in the legislature, and is the judge as to the legality of their election. He fixes the time for the legislature to meet, the place at which it shall meet, has a veto over the laws it shall pass, and his veto can only be overcome by the agreement of two-thirds of each branch. He cuts the territory into counties and townships at pleasure, and has the right to appoint and commission all probate judges, sheriffs, treasurers, auditors, coroners, commissioners, recorders, prosecutors, notaries, justices of the peace, township trustees, etc., etc., down to fence viewers, and removes them at will. He commands the militia, has a general supervision over the laws, overrules the judges by an unconditional pardon, and gets paid from the federal treasury. And for the due execution of all these trusts, and many more which I have not time to enumerate, he is not responsible to the people, but is the viceroy of the president, who removes him at pleasure. A secretary, attorney, and marshal are also appointed by the president, receive their pay from the federal treasury, are not amenable to the people, and are removable at the will of the president. The president also appoints the judges. The bill fixes the precise time at which the legislature must adjourn, and no pressing public exigency can prolong its session for a single hour; and the people are taxed without a voice in the levy, collection, or disbursement." Stuart of Ohio in the the House of Representatives. *Ib.*, p. 843.

<sup>1</sup> "The bill is intervention from one end to the other. Examine it—but you may as well expect to find milk in a male tiger, as the principle of non-intervention in this bill. It has intervention on the first page, for the very act of organization implies the power and necessity of congressional interference. It is on the second page, where you reserve to the government of the United States the right to divide the territory hereafter; on the third page, where you declare that the governor and secretary shall be appointed by the president and senate. You will not allow these men, with all their God-given rights, to

on which it was alleged to be based. Hence criticism was not directed against those provisions in themselves, but only demonstrated their irreconcilability with the principle of non-intervention. By doing this, it proved the dishonesty of the authors of the bill, that is it showed that they did not care for the principle but only used it as a means by which they might be able to talk the people into an acceptance of what was unpalatable in the law. They were able to attain this end, but they could not conceal their dishonesty. Chase tore the mask from their faces, by moving that the officers whose choice the bill left to the president should be elected by the people. The amendment was rejected by a vote of 90 against 10. But if popular sovereignty was to be a reality, the least thing that could be done was to allow the organ of legislation to proceed from the people. The inventors of the new principle could not grant that. If the officials were chosen by the population, and if, further—which was just as inevitable a consequence of popular sovereignty—the legislative body was emancipated from the direct and indirect guardianship of the federal powers, the territories would become states—not states of the Union, but inde-

choose their own governor—to appoint their secretary, their marshal, their attorney. You kindly do it for them, and facetiously term the process popular sovereignty. You limit, on the fourth page, the members of their council to thirteen, and refuse them authority to increase the number of their representatives beyond thirty-nine. Why not permit the people to determine this matter for themselves? Are they not, upon your own reasoning, better qualified than you, to judge in respect to the proper number of their councillors and representatives? We find on the sixth page, 'that no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.' Who knows best—the members of the territorial legislature or the members of congress—the length of time required by the legislature to consider the wants and interests of the people of the territories?" *Ib.*, p. 493, 494.



pendent states which drew the money for the maintenance of their political organization, from the Union. If popular sovereignty in the territories was a truth, the Union had only duties and no rights in respect to the territories. Real non-intervention was therefore, an evident absurdity, and the non-intervention intended was no principle, for it demanded and guaranteed non-intervention only in respect to one point: the slavery question.<sup>1</sup>

On what was the claim based, that on this one question, the territorial population had an unlimited right of self-determination? In the last analysis, it was based on the old principle that the constitution spoke of the territories only as "property." It is all the less necessary to repeat here the refutation of this doctrine, since it led its advocates not to their goal, but far beyond it. If congress was incompetent in respect to the slavery question, because the constitution treated of the territories only as property, then it had no other legislative authority in respect to them which did not treat them exclusively as property. In that case, the territories were constitutionally "more sovereign" than the "sovereign" states,<sup>2</sup> and congress oppressed them in a monstrous manner.

This "property" doctrine was, of course, not abandoned by those who had once advocated it; but it was now kept in the background, as far as possible, because even they were not pleased with the tortuous argument which was necessary to maintain that doctrine and to justify or rather excuse the practice hitherto in vogue, and which could not now be changed. But if their demonstration did not

<sup>1</sup> Ready of Tennessee admitted this and said: "It is non-intervention on the subject of slavery only, which the bill and its supporters contemplate." *Ib.*, p. 745.

<sup>2</sup> See an exhaustive exposition of the absurd consequences of this theory, in Peckham's speech. *Ib.*, p. 870.



start out clearly and definitely with this principle, the northern advocates of the principle of non-intervention would have to treat the constitutional question itself very reservedly and vaguely, because they neither would nor could agree that slavery entered every territory with the constitution. They looked for their chief point of support outside of the constitution. Benton's old "*demokratēo*" principle, which had already so frequently rendered such good service to the politicians, when the constitution could not be brought entirely in harmony with their wishes, had again to be called into requisition. It did not suit the old Missourian now to hear his opponents thunder with his thunder. But it is hard to see why that "principle" might not here be appealed to, just as well as in a presidential election, or any other question, in which the constitution was found inconvenient. The partisans of squatter sovereignty now committed precisely the same fault into which Benton had fallen, almost thirty years before, when he so violently upbraided the house of representatives, because it had not chosen Jackson but Adams as president: they chose to forget that the American democracy had a constitution and not the law of nature, as a foundation. But had the people, during the last thirty years, learned so much, that the attempt was entirely without prospect of success, by high-sounding phrases and immoderate glorification, to lead them again to overlook this decisive fact, and to cause them to substitute an abstraction of natural law of palpable absurdity for positive constitutional law, the commands of political reason and the demands of common sense? One was certainly not justified, confidently to declare this impossible, when it was recalled that the president, in his inaugural address, had so far fallen into the tone of the most ordinary stump

orator, as to speak of a "nation of sovereigns,"<sup>1</sup> a mode of speech which, in its nonsense, would have been only ridiculous were it not that, under certain circumstances, such silliness becomes a dangerous working force.

The phrase concerning the natural right, or at least the right which flowed necessarily from the "American principle," of the territorial population alone to decide for themselves what was of advantage to them, might readily find the warmest assent among large circles of candid but thoughtless people, because from the "principles" of the constitution, an equitable argument was deduced which, considering the lively sense of justice of the people, and their large-heartedness, which sometimes bordered upon weakness, could not fail to make a great impression, where men did not trouble themselves to think. The territories are, it was said, the property of the whole country, and hence it is a violation of the equality of the states, universally recognized as inviolable, to close them, by a federal law, to one-half of the states. If it had been said, with the strict school of states rights, that the territories belonged to the states, the argument would have had a meaning, if from it was drawn the logical conclusion—to which that school, of course, could never descend—that congress could, therefore, as a mere agent, do nothing to which one or more owners raised any objection. If they did not wish to go that far, then the reasoning did not deserve even the name of an equitable argument; a few words sufficed to show even the simplest mind that it was only a gross fallacy. The *states* were neither slave states,

<sup>1</sup> "So long as he (every citizen) can discern every star in its place upon that ensign, without wealth to purchase for him preferment, or title to secure for him place, it will be his privilege, and must be his acknowledged right to stand unabashed even in the presence of princes, with a proud consciousness that he is himself one of a nation of sovereigns." *Statesman's Manual*, III., p. 2021.



nor did they desire to settle in the territories. There was no question whatever of the rights of the states, for the states, as states, had nothing whatever to do with the territories. The only question was, whether the rights of certain subjects of certain states were violated. They were not violated unless the constitution, as a municipal law, carried slavery into the territories, for not only according to the federal supreme court,<sup>1</sup> but also according to the unanimous judgment of the courts of the southern states<sup>2</sup> slavery existed only as the creature of municipal law. Slaveholders, in the territories, shared all the rights possessed by the other inhabitants of them; only no privilege was granted them. There was nothing in the way of their taking their slaves with them; they could only not take the right of property in their slaves with them, since that right was geographically limited by the sphere in which the municipal law was in force. Such was the law, and in the law there was nothing inequitable. Douglas himself had, on a former occasion, exhaustively and strikingly proven that there were still other geographically limited rights of property which could no more be taken into the

<sup>1</sup> "The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial laws. This was fully recognized in *Somerset's case*, Lofft's Rep., 1; S. C., 11 State Trials by Harg., 340; S. C., 20 Howell's State Trials, 79; which was decided before the American revolution." Peter's Rep., XVI, pp. 611, 612; Curtis, XIV., p. 421.

<sup>2</sup> "The relation of owner and slave is, in the states of the Union in which it has a legal existence, a creature of municipal law." Martin's Louisiana Rep., pp. 402, 403.

"The right of the master exists, not by the force of the law of nature or of nations, but by virtue only of the positive law." Walker's Mississippi Rep., p. 86.

And in Marshall's Kentucky Rep., II., p. 470, we read: "Slavery exists only by positive law of a municipal character, without foundation in the law of nature, or the unwritten and common law."



territories, than the property right to slaves. If it were inequitable to rely on the law, in the territories, and contrary to the views of the slaveholders, not to place slaves, so far as the nature of the right of property was concerned, on the same footing with horses and oxen, all the free states were guilty of such inequity. In the question of equity, not the least thing was altered by the fact, that their right thereto was uncontested. On the other hand, the question of equity, was in a certain sense, but not in the sense of Douglas and Cass, shifted, if congress, from equitable considerations, was obliged to refrain from taking any position towards the slavery question in the territories, while the territorial legislature might permit or prohibit slavery. The "*demos krates*" argument started out with the principle, that Americans should not lose their right of self-determination, because from being citizens of a state, they had become inhabitants of a territory, that is it contemplated only the territorial population; the starting point of this reasoning, on the other hand, was the principle, that the intervention of congress was an injustice to the slave states. But if it was an intolerable injustice to the slave states that congress, that is, the representation of the whole people, decided a question which, as the entire history of the Union showed, was of the highest interest to the whole people, and of the highest importance, it was evidently an injustice a thousand times greater, both to the slave states and to the whole people, to put that decision into the hands of a territorial legislature, which represented only a small, incoherent body of men whom accident and private interest had brought into the territory. Closer examination showed that the argument from equity conflicted with squatter sovereignty. But the question of equity was really much the older one, and, in truth, it was the only one under consideration;

squatter sovereignty had been invented only, by an evasion of the question of law which could never be decided by northern politicians in the sense of the slavocracy, to satisfy the slavocracy as far as was possible, considering the views of the north on slavery.

Did Dickinson, Cass and Douglas, not really see that their great invention really led to this consequence? It is certain that they had been led to it partly by demagogical considerations and their personal ambitions, and it was unquestionable that, to a certain extent, they believed in it themselves. The shadows which rest upon their characters are lightened by this, but their mental power and their statesmanlike capacity are not thereby placed in a more brilliant light. The more closely non-intervention and squatter sovereignty are looked at, the more plainly is it revealed that they were a monstrous abortion. No weight should be attached to the fact that no attempt whatever was made, or could be made, to bring the great principle into full force in reference to the slavery question; but it was certainly correct, as Wilson of Virginia said, that so long as the laws were not repealed which prohibited slavery in the territories already organized, the principle could not be established, that congress did not have the right to prohibit slavery in the territories.<sup>1</sup> All the inconsistency, dishonesty and deception in the execu-

<sup>1</sup> "Let us see if it be true that the removal of the restriction, in the mode contemplated in this bill, involves the recognition of a great principle. What great principle is recognized? The principle of non-intervention with slavery? The principle that congress cannot prohibit slavery in the territories? Still, no such principle is recognized. Until congress shall repeal the laws by which slavery is prohibited in Oregon, Missouri, and Washington territories, no man can say with justice that the passage of this bill will recognize the principle that congress has no right to exclude slavery from any territory." *Congr. Globe*, 1st Sess. 32d Cong., App., p. 436.

tion of the idea vanish when compared with the monstrosity of the idea itself.

The thinking world had long recognized that a civilized commonwealth had never grown out of, or upon, a *tabula rasa*, by the way of the *contrat social*, and never would grow on or upon one in the future, because such a course of development is contradictory to the nature of man. But the realization of Rousseau's unhistorical fiction would have been child's play compared with what the apostles of squatter sovereignty had undertaken. The moment the territorial area of the Union was organized, it was a *tabula rasa* only physically. By the act of organization, in and of itself, it became a living member of a political and social commonwealth which was a product of the development of the civilization of mankind, during many thousands of years, and which had a very complicated but very sharply defined character; and as a living member of that commonwealth it was subject to the conditions and laws of its life. On such a soil, a *contrat social* was to be realized, in respect to the question in the history of whose development, the peculiar and complicated character of the commonwealth had found its most pregnant and forcible expression. And its realization was to be rendered possible by legally decreeing a *tabula rasa* in respect to this question; that is not by creating a real *tabula rasa*, but by the legal fiction of one; and the motive for doing so, more or less openly avowed, was the difficulty bordering on impossibility, by the legislative will of the community, so far to master the problem, that the difference of principles and interests involved in it, might not lead to the disruption of that commonwealth. People, therefore, began with an absurdity *ab initio*, and, on that basis, found the solution of the enigma in the resolve, on principle, to allow no will to the commonwealth



as such, in this question, because all the members thereof had so intense a will, in respect to it, that the commonwealth threatened to go to pieces over it. The legislator may, indeed, omit to regulate by law a question propounded by actual circumstances, and he may repeal the laws already in existence, but the result thereof is simply the absence of law and not a *tabula rasa*, for that expression designates primarily some actual condition and not the absence of positive law. The heads and hearts of the settlers were not a *tabula rasa*, but they brought with them all the intensity of feeling and will which had been developed, in the entire people, by the actual development of things, in relation to the slavery question. But this intensity of feeling and will was the ultimate reason why the community as such, should, on principle, not dare to will, because people had begun to doubt, whether it could still will in a manner which was compatible with its continued existence or, at least, with its prosperous development. But will it had to, none the less, and will it should. The right to will was to be transferred to a handful of unknown people, for the most part with an inferior education, who, unlike the members of the federal legislature, were not placed under the pressure of direct national responsibility, and who did not, like them, occupy the point from which the whole field could be best surveyed, and from which, therefore, the demands of the situation could be best judged, but who, probably, would feel and will in this question, with much more intensity than the average of the people, because, in part, they had been determined to settle in the territory, by their interest in that question. The apostles of squatter sovereignty ignored that the law is ultimately determined not by the spirit of the people, but by the will of the people, which, in periods of higher culture, can find expression only through the mouth of

the state,<sup>1</sup> and, while they demanded the revolution they were carrying on, in the name of the unlimited right of self-determination and of the sovereignty of the people, they furnished the greatest parody on all real popular sovereignty by substituting for the will of the people the pleasure of the majority of a few hundred of human *x*'s, whom chance and passion had swept together into the territories.

But senseless as all this might be, before the forum both of logic and of state reason, was it not, after all, the valid consequence of the theory of squatter sovereignty which was, to a greater or lesser extent, admitted by the whole people, and especially by the Democratic party? That the states alone had to decide, whether they would permit slavery or not, and that the Union might be greatly injured by their decision, did not change this in anything. But Stanton of Tennessee rightly said that this decision was already practically made by congress, if it forbade slavery, in the territory. Was Stanton, therefore, not right, too, when he further claimed, that such a prohibition was virtually a violation of the constitution, since the state was only formally left its constitutional right of free choice but not left it in reality?<sup>2</sup>

<sup>1</sup> Treitschke, *Deutsche Geschichte im neunzehnten Jahrhundert*, II., p. 63.

<sup>2</sup> "Now, a state, on being admitted into the Union, cannot be restricted in her institutions. She must, by universal admission, be permitted to exercise her own free will as to the adoption or rejection of slavery. But if you trammel her in the territorial condition; if you attempt to control her during the formative process, you evidently do not leave to her the liberty which is indispensable to the formation of a sovereign state. Your pretense of allowing equality to the future state is nothing but hollow hypocrisy; you, virtually impose upon her a necessity which destroys her power of choice, robs her of one indispensable attribute of sovereignty, and compels her in the end to be, what you intend she shall be, a state in which slavery is prohibited.

This would be right, or rather decisive, if the state had been a being with an existence independent of the population, and if the right of freedom of choice were a constitutional right of that being. Such was not the case, and hence the sovereignty of the state, had not suffered by the prohibition of slavery, during its territorial condition. But the population had no right to complain, for, during the territorial condition, congress constitutionally exercised guardianship over it, in the exercise of which the interests of the whole people should not only be decisive, but must be decisive; and if, by admission of the state into the Union, the population received the right of freedom of choice, it did not act under any pressure of the federal government, but from its own inmost conviction, maintained the decision which the federal government had come to for the territorial period. Congress did not lay hands, in the territory, on any right reserved by the constitution to the future state, but the effect of the law passed by it, in the interest of the whole people, was, that a population settled in the territory, in unison with congress, were convinced and remained convinced, that slavery would not be to their advantage. On the other hand, it was not a sophism, but entirely correct, when it was claimed that non-intervention with squatter sovereignty was, in its inevitable effects, an intervention in favor of slavery. Until the territorial population had taken a legally valid resolution, on the slavery question, the territory was, according to this theory, absolutely

If congress cannot constitutionally restrict the institutions of a state at the time of its organization, or afterwards, in all good faith and fair dealing, it cannot justly prescribe conditions which will necessarily produce a certain set of institutions when it comes to be a state. This would be an indirect conflict with the legitimate end in view—it would be keeping the word of promise to the ear, and breaking it to the hope." Cong. Globe, 1st Sess. 33d Cong., App. p. 721.



without law, in respect to slavery, and there was, therefore, no legal power which could turn away a slave from its boundaries. If now the territorial population proceeded to exercise their "sovereign" right of self-determination, they would not find before them a *tabula rasa* on which they might trace whatever they pleased. The question was, as Franklin, of Maryland, pertinently said, no longer, whether slavery should be allowed, but whether it should be abolished.<sup>1</sup>

This actual condition of things which could not but be the inevitable consequence of non-intervention, wherever the geographical situation of the territory allowed the slaveholders any prospect of success, led to the further question, whether it was only under the visual angle of a Douglas and a Cass, that the decision had really passed, by the bill, entirely and exclusively into the hands of the territorial population? In its original form, the bill had answered this question with a clearness which left nothing to be desired. All the laws of the territorial legislature, it was provided, had to be submitted to congress, and were to be null and void, if it did not approve them.<sup>2</sup> This provision was borrowed literally from older territorial bills, and so long as squatter sovereignty had not been in-

<sup>1</sup> "They announce that they design to make of the territory a *tabula rasa* upon which the legislature may unite, slavery or no slavery, at their option. Their motto is perfect freedom of action on this subject. How can there be said to be perfect freedom to do or not to do, when, prior to their action, this institution is suffered to grow up among them, to entwine itself with all their interests, and to embarrass legislative action on the subject, by questions of interference with private property and vested rights? The question submitted to the people in this event, would not be whether slavery should be established or not, but whether it should be abolished." *Ib.*, p. 421.

<sup>2</sup> "All the laws passed by the legislative assembly and governor shall be submitted to the congress of the United States, and if disapproved shall be null and of no effect."

vented, it had never given rise to any criticism, for it was a self-evident consequence of the whole constitutional relation between the territories and congress. But now, of course, objection had to be taken to it, since it did not say: all laws, with the exception of those on slavery. The real decision on the question, whether slavery should be permitted or prohibited, was therefore, like the decision of all other questions which the legislature treated in a legislative way, on principle reserved to congress. Squatter sovereignty was, therefore, so evidently an empty word, that people could not help supposing it was intended to deceive. For that congress, spite of the paragraph on non-intervention, would not, without any more ado, silently sanction a law of the territorial legislature which prohibited slavery, could not be doubted. For a great many years back, a large number of the politicians of the south had declared it to be an insulting and unconstitutional assumption of congress to make itself, through the committee on slavery, the judge of slavery, and it was, therefore, certain that they would not quietly submit to like insults and like violations of the rights of the south, by a territorial legislature.<sup>1</sup> Their protest remained without effect, perhaps because the majority considered

<sup>1</sup> Hiester, of Pennsylvania, said: "This (the provision cited) was a charming commentary upon the doctrine of our southern friends. Sir, if this bill had passed in its original form, and one of the legislatures it constituted had ventured upon the prohibition of slavery, and submitted an act for that purpose to congress, we should have found the present advocates of territorial independence meeting it with the constitutional objections of the south. We should then have heard it styled territorial impertinence, to attempt to prevent the people of the south from emigrating with their property to a country purchased with the common treasure of the whole Union." *Congr., Globe, 1st Sess., 33rd Congr., App., p. 518.* It was not yet forgotten with what emphasis California was accused of impertinence when it made bold to forbid slavery in its state constitution.



themselves morally obliged, by the non-intervention clause, simply to agree to the act of the territorial legislature, but the end could not, under any circumstances, come without a violent struggle, and the very thing which had led to the proclamation of squatter sovereignty would not have been attained.

But however this might be, the provision was in such direct conflict with squatter sovereignty that it could not possibly be retained after attention was called to that fact. It had to be stricken out, because squatter sovereignty, the chief point of the bill, could not be dropped. A new and very important point was, thereby, introduced into the legislation of the territories, but the territories were now, no more than before, their own masters in respect to slavery or any other question; they were still subject to a foreign will, but the will was no longer the same, and the forms in which it asserted itself were different. The territorial legislature, in its legislative action, had become as independent of congress as the legislatures of the states, and Kansas-Nebraska were given a constitutional position essentially different from that which other territories had yet taken or yet take. But the territorial legislature was emancipated only from congress and not generally. The governor nominated by the president had a veto which could be overcome only by a two-thirds vote of both chambers, and the judges nominated by the president had to decide on the constitutionality and validity of the laws. Kansas-Nebraska, therefore, were to be given, so far as their attitude towards the federal government was concerned, as Hiestor expressed himself,<sup>1</sup>

<sup>1</sup> "And how is it now proposed to overcome this difficulty (spoken of in the preceding note)? By introducing a radical change in our system of territorial government. By establishing an independent legislature in connection with a dependent executive and judiciary, in a



an "amphibious" character: they were not wards of congress, but they remained under the direct guardianship of the president, and the motives which led to this change of system showed that the indirect influence of the president in respect to the slavery question would be turned to account with an energy conscious of its end. So long as the elements who now sought to crown the edifice of the finality policy by the bill remained at the rudder, it had to be assumed as undoubted that no judges and no governors would be nominated who in their official capacity would fully suppress their personal views on the slavery question and who would be studious, in absolute impartiality, to allow squatter sovereignty to become a truth fully and entirely.<sup>1</sup> And even if this expectation was not

dependent governments. By constituting an amphibious establishment, to embrace a sovereign legislature, without the national powers vested in Congress by the constitution of the United States, and without an effective representation in either branch of the legislature invested with its national supremacy. In fine, to organize a territorial government on contradictory principles, one or the other of which must be wrong, and one of which is denounced by the advocates of this very measure." *l. c.*

<sup>1</sup> "But the bill of Douglas does not allow of prohibition by the people. The question rests with the governor and the judges, and they are appointed by the president. And either the governor or the judges may render nugatory any law on the subject which the inhabitants may pass: the governor by his veto and the judges by the legerdemain of constitutional interpretation." *The N. Y. Tribune*, March 1, 1854. See also Chase, *Congr. Globe*, 1st Sess., 33d Congr., pp. 421, 422.

Perkins, of New York, feared most the legerdemain of constitutional interpretation of the judges. He believed that the division of the tract of country into two territories, was occasioned, by the intention of giving Kansas southern judges of the extreme state rights school. "Sir, instead of having the people of the territory make the laws for their own government, the intention of this bill is to have the judges make the law. The intention of it is, expressly not to have the people make the law for themselves, but have a slavery judge make it, and to put them in a condition in which the judges shall make the law. That

confirmed, it could not be questioned that the president had the possibility, by the choice he made of the officials to be nominated by him, to prevent the free decision of the population and even to cast it overboard. Hence Chase was entirely right when he said that the bill did not set up the principle of non-intervention, but substituted for the right of intervention of congress the intervention of the president.<sup>1</sup>

On the other hand, it could not be denied that the bill, in its new form, came much nearer to squatter sovereignty than in its first wording. To infer from this that it was honestly intended to leave the decision of the great question to the territorial population, would have been a very hasty conclusion. To place this cardinal point in a very clear light, Chase moved, on the 15th of February, an amendment, in which the right of the territorial population, under the constitution, to prohibit slavery, was expressly recognized.<sup>2</sup> Pratt of Maryland, wished to amend

is the principle on which these two bills are founded, and the effect which they are calculated and intended to have; and no man will ever be nominated or confirmed either as governor or judge for the southern territory who is not a southern man—who will hold, as Mr. Baily does, and has proclaimed here, that no negro can be free, unless he can show a law granting it to him expressly." *Ib.*, App., pp. 645, 646.

<sup>1</sup> "The whole action of territorial government is thus completely subjected to executive control. The whole achievement of the bill is to substitute presidential intervention for congressional intervention. If we are to have either, I prefer that of congress, to be exercised by the representatives of the states and of the people, rather than that of a president, too likely, under existing circumstances, to wield the immense patronage of his office for the extension and perpetuation of slavery." *Ib.*, p. 781.

<sup>2</sup> "Under which (the constitution of the United States) the people of the territory, through their appropriate representatives, may, if they see fit, prohibit the existence of slavery therein." *Congr. Globe*, 1st Sess., 33d Congr., p. 421.

this amendment to the effect, that their right to introduce it might be expressly recognized. That Chase, when interrogated, declared that he could not vote for the bill, even if his amendment were adopted, served as a pretext for the rejection of his motion by a vote of 36 against 10, since, as Jones of Tennessee said, it was clear that he intended, by its means, only to put obstacles in the way of the adoption of the bill. This explanation of the vote was a course and disloyal artifice. That Chase, considering his views on slavery, would, under no circumstances, vote for the repeal of the Missouri compromise, was self-evident. But, according to the demands of common sense and, of course, according to usage in the United States, it was entirely legal that the opponent on principle of a proposed law should so seek to change it, that it might appear less repulsive to him. It was all the less justifiable to appeal to the *mala fides* of Chase, since the amendment was not only unquestionably, in his sense, a real improvement, but only expressed what the friends of the bill pretended to intend. Pratt's complementary proposition, was, from their standpoint, fully justified, but even if Chase could not vote for it, the principal object of the amendment would not have been attained, if they had adopted it, in this form. What Chase wanted, above all, was such a formulation of the "great principle" of the bill that no future art of interpretation might be able to explain it away;<sup>1</sup> and to refuse to give it that clearness, simply

<sup>1</sup> "Now I want a little clearer understanding of one important point. I want the judgment of the senate upon the question whether, under the limitations of the constitution, the people of the territories *can* protect themselves against slavery? . . . I object to the amendment which has just been adopted—Douglas's motion in its latest form, that it will have opposite interpretations in different sections of the country. In one section it will be construed as leaving the whole subject of slavery completely at the disposition of the people of the territories;



because Chase did not want to have anything to do with the bill, would have been ridiculous. Jones had, indeed, by the form in which he clothed his reproach, already admitted that there was another objection to be raised which must have been really decisive with the friends of the bill. Difficulties grew for them out of the amendment. The moment the bill was made clear, the coalition was broken up which sought to push it through. A large part of the southern representatives went over immediately to their opponents, and fought in their foremost ranks, because the right of the territorial legislature to prohibit slavery was recognized in express words. Hence, the rejection of Chase's amendment did not prove that the friends of the bill wished to give the territorial legislature, with squatter sovereignty, only the right to permit slavery, but it established the fact that the bill not only left it uncertain, but intended to leave it uncertain, whether the legislature might say only yea or also nay.

This is the decisive element in the criticism both of the bill and of its author and advocates: it was to leave everything doubtful which had reference to the right to permit or prohibit slavery. Bell forced the majority of the senate, by their silence, to make the shameful avowal, that this was the only "principle" which the bill contained. With relentless tenacity he insisted on their mentioning, in plain, clear words, the "great principle" in the name of which they asked for the vote of every patriot, and in respect to which all hesitation should cease. He told them to their faces that they did not dare and could not dare to accede to his demands,

and in another section as so binding up the people, by its reference to the limitations of the constitution, that they can in no case, and by no means, however disposed to do so, protect themselves against the introduction of slavery." 1. c.

because they would, thereby, declare, that they no more agreed among themselves than with the opponents of the bill. This was a challenge, as sharp as could be formulated in decent words, directed personally to every senator of the majority, and one which touched his honor as a legislator. But not one of them took up the gauntlet. Bell had, indeed, been able to open their mouths, but they had only words for him which were no answer, for the "repeal of the Missouri compromise" was no answer, since he had not asked the idle question what they now wanted to do, but wished to know what was to be legal, in the future, according to the "great principle." Badger referred him to his speech; Petit said: equal rights for all,<sup>1</sup> and declared that that was not Cass's "squatter sovereignty," but kept to himself what it was; Pratt repeated the old maxim, that the population of the territories should decide for themselves, under what kind of a government they wished to live, but said nothing about slavery and was silent as to when the right of self-determination began; Butler thought that the slaveholders were as good as other people;<sup>2</sup> and Toombs bore off the palm with the declaration that his principle was Douglas's amendment.<sup>3</sup>

And how could a precise answer have been given, since, as a speaker proved, in the course of the debate, twelve different interpretations had been brought forward. Custom could, therefore, say almost without exaggeration, that there were not five members of congress of the same

<sup>1</sup> " . . . the carrying of the same policy and the same political rights all over our territory, the giving to the people of the whole Union the same political (?) rights over every foot of the territory, north and south."

<sup>2</sup> "I understand, if you take away all restrictions, and give us a fair chance, we are as good as anybody else."

<sup>3</sup> "The principle which I understood I was supporting, was the amendment of the honorable senator from Illinois."



opinion on the "great principle,"<sup>1</sup> and, indeed, the "principle" existed only for the obtuse outside masses. Because it could not be done without, so far as they were concerned, its advocates acted thus demurely, and refused, when the question was put directly, to admit, that, among the friends of the bill, there was a difference of opinion which involved any principle. In the debate, many speakers had, of their own accord, said so themselves, and a part of the press scorned to play at hide and seek. Brown of Mississippi had, as early as 1848, distinguished himself as a cutting opponent of squatter sovereignty,<sup>2</sup> and the *Natchez Free Trader* was of opinion that the speech which he now made, in the same sense, had dealt the death blow to that heresy. Badger emphatically protested that squatter sovereignty was not to be found in the bill.<sup>3</sup> Bayard rightly remarked that squatter sovereignty could not possibly be constitutional, if the Missouri compromise was unconstitutional, and he frankly said that the differences

<sup>1</sup> "But I have been told over and over again, that the bill establishes a great principle. I ask what principle? You can find no five men in congress, even among the friends of the measure, who can agree as to the principles it does establish. The language of the bill is so subtle, circumlocutory, and tautological, that it seems to have been intended to suit any meridian." *Ib.*, p. 541.

<sup>2</sup> He had said, on the 3rd of June, 1848, in the house of representatives: "The first who enter the territory cannot assume a sovereignty which belongs to all. The specific exercise of sovereignty over the question of slavery is held in abeyance until the people of the territory ask admission into the Union as a state." *Congr. Globe*, 1st Sess., 30th Congr., App., p. 648.

<sup>3</sup> "The bill necessarily implies but this, that in the existing state of the country, and in the circumstances and conditions in which the inhabitants of these territories will be placed, we thought it fair and reasonable to them, and not injurious to the United States, to extend to them the powers of legislation which the bill confers. But never, never, in any event, acknowledging directly or indirectly the existence of this 'squatter sovereignty.'" *Congr. Globe*, 1st Sess., 33d Congr., App., p. 871.



of opinion on the competency of the territorial legislature might subsequently become of importance.<sup>1</sup> Caskie of Virginia agreed with Bayard in his first statement, and followed it to the correct conclusion, that the federal supreme court would have to declare squatter sovereignty to be unconstitutional, since it had already, in its decision, in 1810, in the case of *Sere and Lalarde vs. Pitot* and others, recognized the right of congress to legislate for the territories, that therefore, they had no legislative right of their own, and that congress could, of course, transfer no right to them which, as the friends of the bill unanimously agreed, it did not have itself.<sup>2</sup>

To these decided declarations against squatter sovereignty, a great number of further protests against the erroneous doctrine might be added. Zollicoffer of Tennessee asserted, in the house of representatives, that the great majority of the friends of the bill were unable to find the objectionable and untenable doctrine in it.<sup>3</sup> If Bayard's

<sup>1</sup> *Ib.*, p. 776.

<sup>2</sup> "It appears to me that the legal timidity must be very great, which can hesitate to commit the question of 'squatter sovereignty' to a tribunal which has such a conception of the relation between congress and the territories. It is just simply and absolutely impossible, that the supreme court can hold that a territorial legislature may exclude us of the south with our slaves from Nebraska and Kansas, when congress possesses no such power, when no such power is in the constitution, and when, in the bill before us, congress expressly subjects the people of these territories in their action on 'domestic institutions' to the constitution. Let it be borne in mind, that I am not now arguing with Wilmot-provisoists, but with those who agree that the constitution gives congress no power to exclude any citizen with his property from the territories of the Union. The friends of this bill are a unit in that belief." *Ib.*, p. 1144.

<sup>3</sup> "I am aware that some of the friends of the bill think that what I regard as exceptionable in squatter sovereignty is embraced in the bill. Still, the large majority think with me; and I cannot consent to lose the chance of repealing the unjust act of 1820 because some fancy that they see squatter sovereignty in the bill." *Ib.*, p. 586.

expectation were fulfilled, and the differences of opinion on this point became of importance some day, no one could excuse himself, by saying that the deception of the people was an honest self-deception. The northern "Nebrascals" could not plead that they were enlightened too late concerning the real views of their southern confederates. The southern representatives had sullied themselves, for the whole transaction was a foul one, but they had, from the first, fully maintained their standpoint. On the part of the press, this had been done, to some extent, with so much want of consideration towards the gentlemen of the north, who served the slavocracy so zealously, that the latter could not, sometimes help forgetting to act out of character and expressing themselves plainly on the differences in principle, in the views of the friends of the bill. Cass who, on the 20th of February, had distinguished himself by an excellent argument against squatter sovereignty, the drift of which was to declare it self-evident, afterwards told the senate that he was loaded with scorn, abusive speeches and threats by the *Charleston News*, as the inventor of the heretical absurdity.<sup>1</sup> But all this did not prevent him and his disciples from still demanding the adoption of the bill, in the sacred name of squatter sovereignty, while these speeches did not keep the south from asking it in the name of the "great principle," and while they declared squatter sovereignty to be a constitutional monstrosity and an insult to common sense.<sup>2</sup> After

<sup>1</sup> "May the hisses of scorn continue to burden the winds of his sky." "You can be of no other use in this world. The south can yet destroy you; you and your compeers." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 771.

<sup>2</sup> All the southern senators, with the exception of Benton and Underwood had voted, in 1850 for Berrien's motion, that the territorial population should pass no law "establishing or prohibiting African slavery." *Senate Journal*, 1st Sess., 31st Congr., p. 376.



the final vote, in the senate, Clayton declared, that if he could have been present at it, he would have voted nay, because it seemed after the final debate, that the bill was intended as a proclamation of squatter sovereignty;<sup>1</sup> but he was, so far as the proceedings afforded any information, the only partisan of the bill who, to the last moment, saw in its studied ambiguity a compulsory reason for its rejection.

This could not be a matter of surprise. Rather must it have been wondered at that Clayton, if as a politician he wished to recognize the commands of civil morals as binding to that extent, had striven so long and so zealously for the bill, since, according to the proceedings and resolutions of the caucus, this ambiguity had been made the basis of the whole campaign. Agreement had prevailed only in respect to the repeal of the Missouri restriction. Some had made it dependent on the simultaneous declaration of squatter sovereignty, and others had declared that they could accept the condition only provided a form were found for the declaration which left room for the views of the south, likewise. Douglas had satisfied these demands, partly by the addition of the constitution already discussed, and partly by the fact that he had not said, when the right of self-determination of the population should come into force. Some interpreted the clause to mean that the territorial legislature had to make the decision, while others said that it spoke only of what the right of the population would be, when the territory gave itself a state constitution.<sup>2</sup> People settled the demands of honor with the consideration that they should be satisfied with the reso-

<sup>1</sup> Congr. Globe, 1st Sess., 33rd Congr., p. 550.

<sup>2</sup> Brown of Mississippi who, of course, voted for the bill, remarked in the senate: "I know that northern and southern men put different constructions on this bill to suit the latitude of their residence; and I



lution of 1850, that is, that they should leave the decision to the federal supreme court. This was right, but, during the four years that had passed, they had fallen a great way down a declivitous path, for now they concealed this fact under the consciously untrue pretense that they were establishing a principle. The life of a people must be greatly imperilled when, in a democratic, constitutional state, legislators begin to lie the people into laws; and when they give the lies the form of counterfeit principles, the hour cannot be distant, when the people must choose between a heroic cure and political decline. That "virtue" is the specific vital principle of republics, is a delusion. The historical course of development, natural circumstances, material interests and political and social customs are the elements by which, in all states without exception, the form of the state is, in the first place, conditioned. But when, in a democratic republic, the people in questions which are of decisive importance to their position in the world of civilization, allow the politicians to substitute for virtue—honor and truth—unprincipled cunning, and to disguise their dark designs in the garb of principles, their ruin is inevitable, if the voice of those who still know something of true principles be not hearkened to.

have no desire to embarrass them by any further observations." *Ib.*, p. 692.

"The bill refers the question of legislation on the subject of slavery to the people of the territories. One side maintains that such legislation would not be authorized until the formation of a state government; the other, that it would be as soon as the territorial government is organized. But whether the one or the other be correct, depends upon the constitution. The bill expressly (though unnecessarily) declares that their legislation shall be 'subject to the constitution of the United States.' And the difference thus existing as to the appropriate period of legislating on this subject is left to be decided by the judicial tribunals of the country, according to constitutional right, and support of the bill involves no compromise or concession by either side." *Phillips of Alabama, in the House of Representatives.*

The entire 14th section of the Kansas-Nebraska bill, so far as it treated of slavery, was, from the first word to the last, constitutionally and politically, a fraud, but a fraud the ultimate consequences of which brought the Union and slavery simultaneously face to face with the question of existence, in such a way, that the conflict of interests and principles could no longer find its final settlement in words, but was forced to seek it in deeds.

## CHAPTER VIII.

## THE KANSAS-NEBRASKA BILL. THE STRUGGLE.

It is a thing which has frequently been called attention to, that the essential difference between the life of the state in our days and that of former times, is to be ascribed to the fact that the holders of political power are now controlled by public opinion, much more directly, and to a much greater extent. It may be said that modern parliaments and the modern press have created modern public opinion. Much less attention has been paid to the other fact, that this control, by public opinion, is not as rigid and efficient as it should be and might be, because the public discussion of the political questions of the day have lost in depth on account of the too wide range it has taken. It formerly frequently happened that a policy detrimental to the real interests of the people was followed because the projects of rulers did not come timely enough and forcibly enough before the people for examination, and now the people are often befooled, because in the endless bombast of the talk pro and con, they allow an expression which is much more significant than scores of speeches and articles, to pass by unnoticed.

The person who had the time and patience to read through attentively, all the speeches made on the Kansas-Nebraska bill, in order to discover what was really important and material in the confused mess, mountain-high of phrases and fruitless repetitions, might have refuted every argument in favor of the measure out of the



mouth of other advocates of it. Its authors pretended to establish a principle which would make all further strife impossible, and their whole reasoning was destroyed by their allies. The latter not only argued squatter sovereignty out of it, but they said in express terms, that there was no question of establishing a principle binding for all future time.<sup>1</sup> They began by making the "principle" of the compromise of 1850 the imperative reason for the repeal of the Missouri compromise, then proved that, by this principle, the most different and contradictory things were understood, and ended now with the declaration, that a law was given only for the concrete case, but still insisted that, by its means, eternal peace was established.

Unless the partisans of the bill had not, from the 4th of January of this year, become the victims of a fixed idea, so that they completely lost the power of thought in respect to the slavery question, these expectations of peace were feigned, for the simplest mind could not but recognize that these facts, according to the laws of logic, would have the very opposite consequences,<sup>2</sup> and the effects which the mere

<sup>1</sup> Butler of South Carolina: "Now, sir, as my friend from North Carolina (Mr. B. dger) has said, I would deal differently with different territories, according to the people that were on them."

Stuart of Michigan: "It establishes a principle so far as relates to these two territories. It establishes that principle no further." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 571.

<sup>2</sup> "But the fourteenth section of the bill, with its provisos and declarations, is so peculiarly and purposely worded, that it admits of as many different interpretations as there were languages at the tower of Babel after God had smitten the people with a confusion of tongues, so that no man could understand his brother. . . . Sir, where the fountain is thus muddy, can the stream be clear? Where the law itself contains the elements of discord, can its practical effect be peace? When the fathers of this bill cannot understand it alike, will not the people be deceived?" *Pecaham*, May 18. 1. c.

discussion of the question produced confirmed this, in the fullest measure. Assuming that, by the non-intervention principle of the bill—whatever that might be—slavery was really forever banished from congress, had those politicians who, in part, represented the state-rights theory in its extremest form and in part preached squatter sovereignty, the radical abortion of democratic doctrinarianism, really so completely lost all understanding of the nature of true democracy that they could believe that they had thereby secured peace? There would be neither rest nor peace till there was no slavery question, in the consciousness of the people. But from the first day, it had become apparent that the propositions of the territorial committee and the discussion called forth by them, brought the fact of the continued existence of the slavery question and its steady intensification more clearly than ever before, to the consciousness of the people. Congress might make provisions, but the only thing decisive was how the people received its resolves. The politicians, too, might feel themselves sufficiently masters of the people to venture the passage of a law which the people did not want and which a great part of them had opposed to the utmost, but the people were masters of the law, since it depended on them what legislators they would in future send to Washington. To every oath of the politicians on the great principles of state sovereignty and democracy, that the word slavery which for two generations had awakened the loudest echoes in its halls, should never again be heard in the Capitol, came back the answer from the people: your deeds mean war, and the war should have, must have and can have no end, until your work is again destroyed. In the name of eternal peace, the conspirators trampled truth, right and freedom more and more furiously and shamelessly under foot, and they were answered more and more firmly and

resolutely: on your heads be the responsibility and the curse; you may overpower us by the number of your votes, but you can never prostrate us. North and south, the old party structure tottered. The *vox populi* in which the *vox Dei* is really heard, loudly announced that deeds would speak if words were set at naught: such were the results of Douglas's motion while it was being discussed in congress. Were Douglas and the other northern politicians with southern principles so blind that they honestly thought that eternal peace could be the fruit of such devices, or did they consider the wheels of the political "machine" ponderous enough to crush out all motions of emancipation of the popular will and the popular conscience?

If the only question had been to push the bill through congress, the coalition of the slavocracy and dough-faces might well have been satisfied with the success of their first onslaught. The bill was adopted by the senate, by 37 to 14 votes, on the 3rd of March.<sup>1</sup> Of the absent, three had voted for and two against the bill, and two southern senators, Bell and Houston, voted with the minority. Northern senators had, in the struggles about the slavery question, frequently played a sorry part, but, even four months ago, the prophecy that the majority of them would, without any compensation, vote for the repeal of the Missouri compromise, would have been resented even by the dough-faces, as an insult and a slander whose baseness was surpassed only by its absurdity. In this vote, the enslavement of the minds and consciences of the northern politicians, by slavery, had reached its lowest depth. But at

<sup>1</sup> Really on the 4th of March, for the session had lasted the whole night and it was 5 o'clock A. M. before a ballot was taken. But it is the custom to give the date of the session, even when a resolution has been passed after midnight.



the same time, an act was done, which made it a certainty, that, from this time forward, the ways of the spoils and machine politicians of the north and of the controlling elements of the population, parted, never to meet again in the slavery question.

On the 14th of March, Everett laid before the senate a protest signed by more than 3,000 clergymen of the New England states against the bill, and against all change in the existing legal prohibitions of slavery in the territories. The repeal of the Missouri compromise was called a great moral wrong and a breach of faith, and the Union was declared imperilled because the faith in all national engagements was shaken. The subscribers of the protest introduced themselves as clergymen, spoke in the name and in the presence of God, and claimed that the intended deed would call down the just judgment of heaven on the land.<sup>1</sup>

This protest called forth a long debate. Several senators subjected it to severe and bitter criticism; others defended it with just as great an expenditure of time,

<sup>1</sup> "The undersigned clergymen of different religious denominations in New England, hereby, in the name of Almighty God, and in his presence, do solemnly protest against the passage of what is known as the Nebraska bill, or any repeal or modification of the existing legal prohibitions of slavery in that part of our national domain which it is proposed to organize into the territories of Nebraska and Kansas. We protest against it as a great moral wrong, as a breach of faith eminently unjust to the moral principles of the community, and subversive of all confidence in national engagements; as a measure full of danger to the peace and even the existence of our beloved Union, and exposing us to the righteous judgments of the Almighty: and your protestants, as in duty bound, will ever pray.

"Boston, Mass., March 1, 1854."

The *Independent*, of March 16, 1854, writes: "On the list are the ministers of Boston of all denominations, the Catholics excepted, and the clerical professors in all the New England colleges and theological seminaries."

but with a certain lameness which made a painful impression when observed in the light of the vigorous language of the document itself. By a reference to the date, the reproach was easily deprived of its strength that the protestants had been guilty of an affront to the senate, inasmuch as they had allowed themselves to use such language in respect to a legislative measure resolved upon by it. Although the protest was only now presented to the senate, it had been drawn up before the senate had announced its legislative will, and therefore, in this respect, there was no violation of decorum. But, on the other hand, it was true that it was contrary to all precedent, and it gave occasion for serious thought, that clergymen believed themselves justified and called upon, as clergymen and in the name of God, to interfere in the legislative labors of congress, and to threaten the judgments of heaven. It was a transparent and unworthy sophism for the defenders of the protest to say that congress had never objected to receive petitions from "merchants," "manufacturers" etc., and that the subscribers had the same right as the latter to mention their trade, and for them further to claim that the words "in the name of Almighty God and in His presence," were only a mode of expression which had become a second nature to those gentlemen. The subscribers were not school boys thoughtlessly repeating a formula they had learned, from memory. They were perfectly conscious of what lay in their words and they wanted to say what they did say. Hence their protest was unquestionably a violation of decorum and much more. They stepped out of their legitimate sphere of action, inasmuch as they spoke as the servants of the Most High, and in His name, where they were entitled to speak only as citizens, like all others. But no healthy political system can suffer the clergy, as the called and ordained



declarers of the divine will, to mix in politics, for here the words of Christ apply: "Render therefore unto Cæsar the things which are Cæsar's, and unto God the things that are God's." The pulpit belongs in the house of God and should not be carried into parliament, even if God must not be excluded from parliament. The defenders of the protest felt this, and hence their defence was so weak and lukewarm.

But was that all that could be said, and had to be said, on this matter? In the life of every civilized people there are, occasionally, circumstances, in which the observance of the rules, applicable in ordinary times, would be a great misfortune and a great wrong. What is true of individuals is true of states: that which, under normal conditions, acts like poison, is, in certain morbid states, a medicine that saves. Clergymen are servants of God, and should be mindful of the words of Christ: My kingdom is not of this world. But when, in a deeply religious people, with whom the churches are, in great part, the centres of social life and of the higher ideal interests, the clergy are silent, when they are convinced that the moral bases of the life of the people are systematically being destroyed by the politicians, either the saying is verified: if men are silent, the stones will cry out, or things go from bad to worse, until salvation is impossible. It was now remembered that the fathers of the republic had once called on the clergy to hurl the "thunder" of the pulpits among the people, to rouse them to action in the great struggle for freedom, and that up to that very hour, the people had preserved in grateful and admiring memory those who hearkened to that call. But then men were concerned with a purely political question while now the political question was so strongly permeated by ethico-religious elements that no one could wonder that the latter



greatly transcended the purely political in the eyes of the clergy, notwithstanding its eminent importance.

But the main point to be considered was not whether this justified the step taken by the protestants. Even if they had deserved a reprimand ten times more severe than the one they received from Douglas and others, that did not alter the fact that more than 3,000 clergymen had felt themselves compelled, in conscience, in the name of God, as His servants, as the appointed guardians of morals and guides of souls, solemnly and jointly to bear witness that the contemplated act was an atrocity which could not go unpunished. Of this also those who had been attacked were perfectly aware. Not because the step was an impropriety and an assumption, but because it was one of the clear, menacing signs of the time, and was destined to exercise a powerful effect, did they criticise it as they did. Had any other question been at issue, in which the consciences and the religious convictions of the people were not authorized and compelled to say a decisive word, the clerical gentlemen would have been allowed to depart with a gentle remonstrance couched in respectful terms and with a few harmless witticisms. Now the blow was angrily returned, for the politicians writhed with pain under the strokes dealt them, because the consciousness of guilt made them cut deep into their flesh. The weight of the blow does not depend on whether the person administering the punishment is justified in using the club. The pulpits controlled a thunder and lightning of their own, and one did not need to be a Calhoun to recognize this fact and appreciate its importance. When the pulpits, in such a way, gave the watchword, war, it was only ridiculous for the politicians to claim that their act established and guaranteed peace. And as the American people, spite of all their religiousness, do not need to be

told by the gentlemen in Washington that politics should not be directed from the pulpit—although they are accustomed to hear the questions of the day discussed by their preachers in the churches—the politicians have every prospect of being worsted whenever the pulpits give them battle in earnest, for the pulpits are not very likely to try the experiment unless they can confidently calculate on finding the necessary support among the people. Real liberality is sufficiently the rule in the United States to cause the political confession of faith of the clergy to be looked upon as their private affair. But when they enter as agitators into the political controversies of the day, they stake their worldly interests to a greater or less extent unless they are in harmony with the majority of their respective congregations. As, moreover, the spirit of democratic equality and self-mastery permeates ecclesiastical affairs so much, that spite of the marked esteem in which the clergy are held, the people are not inclined to concede to them in general an authoritative position, the great body of the clergy are never found in outspoken opposition to public opinion or in an aggressive attitude towards it. Individuals, here as elsewhere, are real leaders, path-finders and openers of the way of public opinion, but the majority, in their thought and feeling, are an integral part of the great mass, and hence do not direct them but move with them. By their official and social position, they are in a situation to urge public opinion forward in the direction it has independently taken, with great force, when they, with full conviction, cast their whole intellectual and moral weight into the scales.

The protest of the New England clergy showed two things: if the clergy acted in this way, public opinion in that region, in which the intellectual life of the United States had had its chief seat from the very first, and



in which the deliberate, vigorous fanaticism of the Puritan spirit still lived in a modified form, must have taken its position with a decision which absolutely excluded all recoil from it; and that the clergy were thus found in the front was a guaranty that this decision would become greater and greater, and that ever wider circles of people would be forced to take the same standpoint. The protest was the writing of the powers of fate upon the wall, but no Daniel was needed to discover its meaning. It plainly told that the New was breaking in, that other times were coming, that a generation had appeared on the scene who thought differently from those which had preceded it. Was it possible to ignore this still? How long and how bitterly had the abolitionists complained that the churches were the strongest "bulwark" of slavery—and how just was their complaint! The following year, the Tract Society and the Sunday School Union had to be brought to an account before the forum of public opinion because of their wretched and corrupting dallying with slavery.<sup>1</sup>

<sup>1</sup> See the report of the committee of the New York General Association on the relation of . . . the American Tract Society . . . and the American Sunday School Union to the subject of slavery, unanimously adopted August 26, 1855. The committee of the Sunday School Union reported: "The committee do not consider the exciting subject of slavery as at all involved in these proceedings. With that subject it is not the province of the society to intermeddle; nor can we do so without a palpable violation of the original and fundamental principles on which the society was organized, and has uniformly acted." p. 12. The tract society had to answer not only for sins of commission, but also of omission. In the reprinting of older writings, everything which related to slavery was left out, and alterations, such as the substitution of "servants" for "slaves," made. In its publications, there was an occasional reference to slavery in Africa, Brazil, etc., but never to the "peculiar institution" of the southern states. The executive committee justified this by the "catholic basis" of the society which allowed only "the circulation of religious tracts calculated to receive the approbation of all evangelical Christians. But at



In the fall of the preceding year, Parker had compared the preachers who had dared to attack slavery to the little lamps hung out from windows at great distances, in the country, and which served only to make the general darkness seem greater.<sup>1</sup> Night had certainly not yet made place for day. For many a year longer, the spirit of conservatism was destined to assert itself in many pulpits as much as ever, bidding the warning conscience, out of intellectual and moral indolence, to be silent, that it might not subject itself to the wear and danger of battle, but much more frequently holding fast to the inherited conviction

the same time, the tracts carried on a violent war against dances, smoking and the opera, and advocated just as zealously abstinence from all alcoholic beverages without troubling itself because "all evangelical Christians" were, by no means, of one opinion in respect to these things. The report cited, from which these facts are taken, says: "The timid policy of the committee of the tract society has debased the moral sense of southern Christians upon the subject of slavery, and thus has helped to create that vicious and arrogant public sentiment for slavery, before which this great society of evangelical Christians now bows in humiliating silence." (p. 10.) This judgment was certainly not too severe, as the organ of the society, the *American Messenger*, had an edition of 200,000, and of the *Family Christian Almanac* published by it, a like number was published, while 619 colporteurs distributed the tracts.

<sup>1</sup> In the autumn of 1853, he writes to S. J. May: "The American pulpit is the sworn ally of slavery, the negro's deadliest foe. I know there are exceptional pulpits. . . . But how few they are!—little lamps hung out from windows, here and there, on a country road at night, they only show how deep the darkness is, and what long miles of space all unlit. The character of the American church is one of the saddest things of the times. What is preached as 'religion' and called 'Christianity,' demands slavery as one of its institutions. If a man publicly doubts that God commanded Abraham to commit human sacrifice, he is set down as a 'dangerous man;' even Unitarians and Universalists denounce him as an 'infidel.' . . . The American pulpit dares not rebuke the public sin. Nay, it is thought indecorous in a New England minister to hide his own parishioners from the official stealers of men." Weiss, *Life and Corresp. of Th. Parker, II.*, pp. 118, 119.

that the churches should have nothing to do with the matter, which belonged entirely to the domain of politics and the responsibility for which under the constitution lay with the states as they alone had power to authorize slavery. But when more than 3,000 clergymen raised their voices in common and with so much emphasis, their trumpet call must have roused thousands of the indolent and sleepy whom even the most eloquent politicians could not stir. When the night which the slavocracy had introduced into politics, seemed darkest in the vote of the senate on the Kansas-Nebraska bill, the protest of the New England clergy announced that the break of day was not distant, for the message of peace of the politicians had forced a conflict of light with darkness, which would end with the complete victory of the one or the other principle, since the principle of mediation hitherto had recourse to, had been abandoned.

That the bill would be adopted by the senate was certain from the first, and hence the vote of the 3rd of March rather produced indignation than created a very powerful impression. The house of representatives was the real theatre of the struggle, and little reason as the opposition had to be confident of victory, its resistance was not entirely without prospect of success. As early as January 31, Richardson of Illinois,<sup>1</sup> had introduced the bill in the

<sup>1</sup> In the case of Richardson, too, the correct understanding of "American principles" and constitutional law developed *pari passu* with the demands of the slavocracy. On the 3rd of April, 1850, he had said in the house of representatives: "If the bill for territorial governments (for Utah and New Mexico), silent upon the subject of slavery, shall be defeated, then I am for bills with the Wilmot proviso, in order to give governments to the people in the territories; and I speak for four of my colleagues, assured that they will feel constrained to pursue a like course. And if General Taylor shall approve the proviso, then it will have passed; and it is for them (the gentlemen from the south) to determine what shall or shall not be done, and let the responsibility



name of the territorial committee, and many speeches had been made while the matter was still pending in the senate, but the battle of words did not reach its full development until the senate's decision was given. The debate was followed with increasing excitement. Where people were in favor of the bill, they acted the passive part of spectators, leaving it to the press to second the fearless knights in congress, and to lift them by its applause above all reproach, attacks of shame, qualms of conscience and even all considerations of expediency. The opposition, on the other hand, engaged immediately and spontaneously in the struggle. One popular meeting followed on the heels of another, and people sought in vain, an obscure corner into which the eternal words "Missouri compromise" had not penetrated. One needed not only a face of dough but a brain of dough and nerves of iron not to be drawn by the steady storm of words into the whirlpool which had seized on everyone around. A handful of politicians had begun the work, but the people took it up with an energy greater than they had any other question since the constitution had come into existence. The spirits which Douglas had called up could not be banished by any assurances of peace, and they bore witness against him more loudly and more menacingly every day. He was too hard, and, in this question, morally too obtuse for them to be able to disturb his sleep by frightful dreams, but they soon forced him to recognize that what he had planned, as a mere intrigue, was the greatest battle

rest with them." He was now Douglas's first adjutant, and when the Democratic party in 1855-56, had made him its candidate for the office of speaker, because of his services in the Kansas-Nebraska bill, he said in relation to the above declaration: "I take this occasion to say, that the sentiment last quoted, uttered in a moment of excitement, I, upon reflection, repudiate as unjust and improper." *Congr. Globe*, 1st Sess., 34th Congr., p. 222.



which had ever raged in the Union, and that his personal stake was his whole political existence. All his great powers were thereby spurred into the highest energy. He now really made the impression of a "little giant," one of those mischief-breeding dwarfs of fable, whose muscular force supported by artful cunning was great enough to overpower many a mighty hero.

He had the satisfaction and encouragement to see the legislature of his own state declare in favor of the bill, but it was the only legislature of a free state that did so, and the circumstances immediately attending the vote left it very doubtful whether it would stand by it to the end, and especially whether, in this question, it rightly represented the population of the state.<sup>1</sup> From the legislatures of the other free states, the conspirators received no encouragement, and many opposed them with such decision, that it required the highest degree of audacity to uphold the assertion that the north offered to repeal the Missouri restriction. And these demonstrations had a special significance from the fact that they proceeded from people whose action could not be accounted for on the theory of a selfish and unscrupulous

<sup>1</sup> The Iowa correspondent of the *Independent* writes on the 15th of April: "You must have noticed the fact that ex-Governor Reynolds, speaker of the Illinois house of representatives, who voted for the pro-Nebraska resolutions in that body, has recanted, and avows himself an anti-Nebraska man.

"At a public meeting in Belleville he denounced the bill as wrong, unethical, and contrary to the wishes of the American people. He acknowledged his own error in voting for the legislative resolutions, and said that in passing them the legislature was guilty of a misrepresentation of the popular will.

"These resolutions, by the way—the only northern legislative sanction of the bill—were passed by the votes of a minority, and the majority over those who voted against them was about half the majority which recently re-elected Judge Douglas; so little can party drill do, even in Illinois, for slavery extension." *The Independent*, May 11, 1854.

pulous party policy. Thus, for instance, Fessenden of Maine announced, on the 3rd of March, but before the final vote of the senate, that the Democratic legislature of his state had almost unanimously adopted resolutions in which the senators were instructed to do everything in their power to prevent the adoption of the bill in its present form.<sup>1</sup> This did not look as if the bill would fulfill its original object, more firmly to cement the party; for it could no longer be too confidently calculated upon, that, as in the last two presidential elections, the attitude of parties towards the slavery question, as a secondary matter, would be again subordinated to the general considerations of party, since the Democrats had been beaten, in the March elections, in New Hampshire, the president's own state. And this hope was all the less warranted, when the effects of the bill were observed in New York which by the fraction contention within the Democratic party had been the direct incentive to the idea of tightening the loosened party bonds by the renewal of the contention between the north and the south.

During the first weeks of the struggle, a report had been circulated, that the Hards intended to vote against the bill, in order to punish their southern party associates because they had not, in their quarrel with the Softs, sided with them energetically enough. The *Richmond Examiner* immediately gave the lie to the rumor, but at the same time as decidedly expressed the expectation that all the influence of the president would not suffice to keep the Softs true to the flag.<sup>2</sup> So far as one was warranted to

<sup>1</sup> Congr. Globe, 1st Sess., 33rd Congr., App., p. 319.

<sup>2</sup> "We have taken especial pains to ascertain how the representatives of New York will vote upon the Nebraska bill when it reaches the lower house. It has been rumored that Mr. Cutting and others of the National Democrats will bolt upon this test measure, in retaliation upon the south for the desertion of their cause. We are very con-

draw a conclusion from the attitude of the press, it seemed as if these prophecies would be completely fulfilled: the organs of the Hards almost all favored the bill and the organs of the Softs stood almost as unanimously in the opposition.<sup>1</sup> And if the Softs did not immediately cast away their party predilections—of party convictions at the time, as has been repeatedly shown, there was no question at all—like a worn-out garment, they entered the ranks of the opposition with alacrity and heart. They were so loud in their demonstrations, that they stood second only to the “free Democrats” with a touch of abolitionism. It was one of them, Senator Fenton, who ventured the prophecy, that the north would now cease to act on the defensive, and would take the offensive if only in respect to the territories.<sup>2</sup> Such words from a Demo-

crat are not to be taken as evidence that he was so confident that this is a gross mistake. We implicitly believe—and we speak advisedly—that all the national Democrats (save Walbridge) will resolutely and cordially support the bill. We are equally well satisfied that all the ‘Softs’ (except Westbrook, and, it is supposed probable by some, one other besides) will ‘spit upon’ the bill, as they did originally upon the compromise of 1850, and as they have so often, upon the just demands of the south. This is our firm belief, not unadvisedly adopted. We believe that the president will use all his great influence to bring over these faithless protégés of the cabinet, but without avail. We shall ever be ready to render a just tribute of commendation to the administration in this patriotic effort, whether it succeeds or not.” Printed in the *N. Y. Tribune* Feb. 6, 1854.

<sup>1</sup>“On the 7th of February the *Albany Argus* gave a list of twenty-six Hard newspapers actively supporting the repeal of the Missouri compromise line, and showed that not one was opposing it. It also gave extracts from the leading Soft papers (10 in number) against the bill. . . . On the 14th of February, the *Argus* claimed 37 Hard papers in favor of the Nebraska bill, and only two Soft papers, out of over 40, in favor of it.” The *New York Hards and Softs*, pp. 51, 52.

<sup>2</sup>“Hitherto we have acted on the defensive; but let me tell gentlemen, a sentiment exists at the north, call it what you will, philanthropic or fanatical, which will justify itself by this want of good faith in taking an aggressive attitude; and if it do not carry a war



cratic mouth were, of course, much more unpalatable to the administration and the apostles of squatter sovereignty than the passionate denunciations of the Whigs. But they were not surprised; for that the great majority of the Softs would not do military service for them they had foreseen as well as the Richmond *Examiner*. If the defection had stopped here, they would have easily and quickly settled with the hateful fact. But if the politicians and the press of the Softs had the great body of their fraction associates back of them, the same was not true of the Hards. As in the other free states, in which nothing was known of Hards and Softs, many Democrats remained true to the faith Douglas once cherished, that it would be wicked to lay a hand on the Missouri compromise, so, in New York, a great many Hards refused to follow their leaders in the new path. James W. Gerard who, according to his own declaration, contributed greatly to win over the state to the compromise of 1850, warned the south, as early as the 30th of January, at a great meeting held in the New York Tabernacle, that Douglas was laying a trap for, and casting a poisoned bait to, it.<sup>1</sup> With what right was it believed that it could be assumed that all

into the very camp of Africa, will enter the outposts, and clear what it conceives to be the taint of slavery from the territorial soil, which, by the spirit and genius of our institutions, and the great base of the superstructure—the inalienable rights of man—should be devoted to freedom's uses." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 157.

<sup>1</sup> " . . . If the compromise (of 1820) can be trifled with, what becomes of the compromise of 1850? If they are cobwebs spun to be broken, if they are toys to be dashed to the ground, if the compromise of 1820 is a dead letter, what becomes of the compromise of the constitution? . . . Now, I tell the south to beware. The politicians are seeking to inveigle them into a trap. They are casting a bait whereby to catch their votes; but take care that bait is not poisoned, and when they take it it may not destroy them." *The Independent*, Feb. 2, 1854.

who, four years before, had, under the circumstances then prevailing, seen in the compromise an acceptable and satisfactory settlement, had thereby completely divested themselves of their independence, their political conscience and their moral views on slavery, and would blindly obey every command of their leaders? But the person who was not now able to find the repeal of the Missouri compromise in the "principles" of the compromise of 1850, and who had then taken the part of the south, must now, as Upham of Massachusetts rightly said, have felt greatly aggrieved. The south might certainly count on the masses of the Hards, but those among them who now fell away, might easily become its most passionate opponents, because to their genuine indignation was added the personal embitterment caused by the fact that they had been misused, and that it was supposed, because they had allowed themselves to be befooled, everything might be expected of them. Upham was far in advance of his time when he said that the planned breach of faith would place the united north in opposition to the south.<sup>1</sup> But it was certain that the stroke which was strong enough to sever from the Democratic party even a small number of the

<sup>1</sup> "Those persons who have been most steadfast in standing by the rights of the south, under the compacts, are the most wounded, the most justly incensed, at this attempt to repeal and repudiate a solemn compromise. Heretofore the south has profited by our divisions. Those divisions have arisen, to a great degree, from the restraining and embarrassing influence of a sense of obligation on our part to adhere to the engagements, and stand up to the bargains made by the fathers, and renewed, as I have shown, by each succeeding generation. But let those engagements be violated, let those bargains be broken by the south on the ground of unconstitutionality, or any other pretense; from that hour the north becomes a unit, and indivisible; from that hour 'northern men with southern principles' will disappear from the scene, and the race of dough-faces be extinct forever." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 713.



hitherto most devoted partisans of the south, was the most powerful of all the blows by which the slavocracy had for decades labored to cement the divided north into a unit. And that desertion had made very perceptible gaps in the ranks of the Hards likewise, could not be concealed nor argued away, since, contrary to the confident assurances of the *Richmond Examiner*, even the fraction in the house of representatives furnished a number of deserters.<sup>1</sup>

The proofs accumulating every day that a wasp's nest had been stirred up could only stimulate the northern originators of the plot, for to let the matter drop, once it had been taken hold of, was impossible; victory or political annihilation was the alternative before which they had placed themselves. But they did not treat these manifestations of a rebellious spirit with levity. On the 7th of March, the *Washington Union* announced, indirectly but plainly, that the administration was resolved to mount the batteries of government patronage for the support of those Democratic members of congress who were in danger of becoming political martyrs, because of their support of the bill.<sup>2</sup> The opposition had, from the beginning strongly emphasized the fact that the 33d congress had been elected without anyone having any idea

<sup>1</sup> The *N. Y. Tribune* was written to on the 15th of May, from Washington: "Maurice, Peck, Oliver and John Wheeler have reflected imperishable glory on the Hards of New York." And these were not the only ones. I need only mention Peckham.

<sup>2</sup> If a Democratic member of congress is led by his judgment and his conscience to vote for the bill, as we hope all Democrats will be led to do, and he returns to his constituents to encounter the clamor and opposition of Whigs and abolitionists, together with disaffected men of his own party, no sensible man—at least no man who understands and appreciates the character of the executive—will believe that the president will allow such factious men to wield public patronage to overthrow any man at home who has given to the principles of the bill a cordial and a conscientious support."



that this question would be laid before it for decision. It, therefore, charged the pretended enthusiasts for the "*demos krato*" principle with having violated the principle of popular sovereignty, inasmuch as they—although there was no reason for haste in the organization of the territories—were endeavoring to force so incisive a measure without affording the people an opportunity to make their will known, with certainty, in respect to it.

This announcement of the organ of the administration afforded a positive foundation for the further complaint that this was done, because it was felt that the voluntary assent of the people could not be obtained. The facts had wrung from the government the admission, that the repeal of the Missouri compromise was to be forced upon the people by the politicians, and that individual members of congress were not to be controlled by the will of their constituents, but by the resolve of their party leaders. The president who, on the assumption of his office, had voluntarily taken a solemn oath to make use of every means in his power to prevent every disturbance of the peace in respect to the slavery question, now caused it to be announced that he was resolved to use these means in the interests of those who, in alliance with himself, but in opposition to their constituents, destroyed the oldest and principal of the free agreements on the slavery question. Pierce not only broke his word, but he intimated that he would do the very opposite of what he had promised. Since Jackson's days, it had been a principle that federal offices did not exist, primarily, for the guarding of the peoples' interests, but for the rewarding of party services; a public announcement that they were to be employed to accomplish a coercion of the people by their representatives, accompanied by a double and threefold breach of faith, was a new achievement. And the

president who had ventured to do this was not, like Jackson, the idol of the masses and a man of powerful will, but, in every respect, one of typical mediocrity, of whose existence the masses became aware only by his nomination as a candidate for the presidency. But the worst, although it was very intelligible, was, that no one wondered at this. Pierce did not see himself under so gigantic a magnifying glass that he was seized with an autocratic attack, but he was, in this, as in everything else, the organ and tool of the politicians. The fulfillment of what was previously said was now complete: the radicalization of the democracy, in the spirit of the Jackson-era, in combination with the spoils system, had not placed power in the hands of the masses, but had transformed the leadership of statesmen into the leadership of politicians who now believed themselves so completely masters that, in their regardlessness of every consideration, they overstepped the bounds of prudence. Not his merits nor the admiration or love of the people, but the politicians had placed Pierce in the presidential chair, and he now moved his arms and lips as the discoverers and inventors of his statesmanlike greatness pulled the wires. His organ declared that all Democrats should support the bill, because its rejection would be a defeat of his administration,<sup>1</sup> and he himself confidently expressed the conviction that, in consequence of the bill, no slave state would ever again be admitted into the Union.<sup>2</sup>

<sup>1</sup> "It need not now be repeated that President Pierce was an early, and that he had been an ardent and constant advocate of the Nebraska bill. It has become a prominent measure of his administration. If it be defeated in the house, it will, it must be admitted, be a defeat of the administration. The Whigs of the north, and the abolitionists have coalesced in opposition to the administration, upon the ground of its support of the measure. The issue is thus made—the test is thus applied." *The Washington Union*, March 23, 1854.

<sup>2</sup> "Sir, there never was a greater cheat than this bill is. It is a

These expressions and the announcement of the 7th of March, were the best commentary on the assurances of Douglas, Cass, Petit and others, that the substitution of squatter sovereignty, for the Missouri compromise, would put an end forever to sectional contention. But when certain slavocratic fanatics, declared they were firmly convinced that the bill would be the death blow of abolitionism,<sup>1</sup> it cannot be imagined, that they were really of that opinion. They saw the constitutional and political side of the question as clearly as others, but they had completely lost the power to understand the moral nature of the problem, because the moral objection to negro slavery seemed simply absurd to them. The person who had reached that point, could, with entire honesty, draw the most senseless conclusions, and harbor the most foolish expectations; for the ethical element was the real core of the question. Douglas by no means overlooked this ethical element, but in his own moral hollowness, he greatly underestimated its power and thought that he could so far suppress it by political cunning, that it would not become decisive of the result. The former, on the other hand, saw only the legal and political side of the question. Between Mason and Douglas and their respective followers, there was, in the coalition, a group who

miserable humbug. Well might Franklin Pierce, who is urging its passage, declare, as he did to Senators James and Clémens, that if this bill should pass, we should never have another slave state though we should absorb the whole of Mexico, and that the bill was a movement in favor of freedom." Cullom, on the 11th of April, in the house of representatives. Congr. Globe, 1st Sess. 34<sup>th</sup> Congr., App. p. 541.

"Mr. President, those who read as I do the signs of the times, will agree with me that, whether they have entered into this contest from a sentiment of morality and religion—or whether they have entered into it for the purpose of attaining political power, this bill, if it pass, is the death blow to abolitionism. I believe it—firmly believe it" *Id.*, pp. 774, 775.



questioned the moral reprehensibility of negro slavery, but, who, at the same time, fully understood that others might entertain the opposite view, and be fully convinced of its truth. They had nothing of the provoking frivolity of a Douglas, nor of the self-complacent moral shallowness of a Cass, and they understood that the moral-religious difference of principle was the turning point of the whole controversy. Hence they recognized and confessed that neither this nor any other law could establish or secure peace. In almost the very words which Calhoun had used, Bayard now declared all the efforts of congress to be vain, so long as the question was not settled, whether slavery was against the laws of God and nature; if the majority of the northern population were once fully persuaded that it was, the ties which bound the Union together would snap like pack-threads.<sup>1</sup>

If, on the part of the friends of the bill, there had been more of the moral earnestness which had revealed to Bay-

<sup>1</sup> "But, sir, although such may be the opinions of senators generally as regards the effect of this bill, that it will destroy sectional animosities, abolish an arbitrary line, and produce a universal feeling of brotherhood throughout the country, I am utterly unable to foresee such beneficent effects as resulting from its passage. . . . I view them as a vision. . . . I admit, a beautiful vision—but a vision of fancy merely. Sir, the evil, and the ground of disease, lies far deeper. . . . The great danger to this country, and the question which lies at the foundation of all abolition excitement, (be it excited on what pretext it may) is the naked question, Is slavery a moral crime? Is it a sin against the laws of God and of nature, and the mandates of Christianity; or, if it be an evil, is it, at most, a political evil? This is the great question which must ultimately determine the existence of agitation against slavery in this country. . . . But while that opinion (that slavery is a moral crime) exists uncontroverted or evaded, there is danger to be apprehended; and should it ever become the settled and received opinion of a majority of the people of the non-slaveholding states of this country, then the ties which bind this Union together will snap like pack-threads." *Ib.*, pp. 775, 776.

ard the real nature of the question, to the extent that it did, the Kansas-Nebraska bill would never have become a law; for it became more apparent, every day, that large circles of people who, unlike the politicians, could not be governed by selfish considerations of any kind, commenced to examine their moral-political convictions in regard to slavery; and the result of this examination was, that even Pierce began to suspect that Douglas had cast a poisoned bait to the slavocracy. If the political thought and feeling of a great portion of the most highly educated strata of the people had not in a great many respects and especially in regard to the slavery question, shrunk, in the subtleties of the states right theory, to the dimensions of the reasoning of mere advocates, this would have been immediately and universally recognized. Where people were on the same educational level, morally and intellectually as the average of the native northern population, but had, so to speak, accepted on faith the constitutional subtleties without having any understanding of them or sympathy for them, the wordy fetters fell from their limbs of themselves.

The Irish remained true to the Democratic flag, and flocked about it, if possible, more devotedly than ever. State sovereignty was if not as unintelligible, at least as indifferent, to them as the Missouri compromise; to them squatter sovereignty meant almost that every one might do what he wished, and hence, was an excellent thing; even north of 36° 30', the colored man remained a "nigger," and "hip, hip, hurrah for Douglas" overbalanced all head-splitting arguments and unctuous exhortations. The Germans, on the other hand, had never been able clearly to perceive why the fundamental principles of natural law, Christianity and democratic republicanism should be changed into their contraries, when there was question of applying

them in the case of men whose skin was black and hair was woolly; and they had always fully understood that labor had been dishonored by the slaveholders at the expense of the free man, by slavery. They, too, had no sympathy for the negro, and it, therefore, cost them no effort to accommodate themselves to the circumstances they found existing. As they had, for the most part, settled in the free states, they did not, as a rule, come into direct contact with slavery, and were so preoccupied with their own affairs that they busied neither their hearts nor heads with the colored race. Their conservative feeling and their loyalty were not at all put to the test, for the cause of the slaves was too remote from them to tempt them to interfere with what was legally established. The greater part of them had joined the Democratic party, but, in doing so, they had not at all taken into account the attitude of the two parties to slavery. But now all this was suddenly changed. A new law was to be established, and they, as citizens of the republic, were entitled and bound in duty, to co-operate in the decision. Hence they shared in the moral and political responsibility for all the consequences of that decision. For the first time, they were obliged to take a stand before their own consciences and before the country which, by the free act of their will had become, and was to remain theirs and their children's fatherland. They understood the terrible seriousness of the matter and entered firmly into the struggle as men of independent will and independent thought. They felt themselves Americans and not citizens of this or that individual state. Although it may, at first sight, seem a contradiction, it is nevertheless a fact easily intelligible that one of the most powerful factors in the progressive nationalization of the republic is its adopted citizens who have come from all the countries of the earth, and it was



in part owing to this fact that the Germans now began to cast their weight into the scales for freedom. The arguments from state sovereignty made no impression on them; that the south could not point to one clear word of the constitution but was in need of endless deductions which might make the brain of a lawyer giddy, was sufficient to make them inquire simply: Is the repeal of the Missouri compromise in the interest of the Union? All the talk as to whether the Missouri compromise was a "compact" and as to who had made it, seemed to them idle: the fact that it had been looked upon for more than a generation as an inviolable settlement, stamped the Kansas-Nebraska bill, in their eyes, as an outrageous breach of faith against which German consciousness of right and German rectitude rebelled, and rebelled all the more when it was sought by sophistry, to clothe it in the habiliments of the law. Considering their tendency towards political doctrinarianism, squatter sovereignty would, perhaps, have had a certain charm for them if it had not been invented solely for the purpose of admitting slavery by a back door into a domain in which it had been hitherto prohibited. Hence they had not laboriously to disentangle all the knots with which the question presented itself, by reason of its historical development, to the native American. When the question was approached without prejudice, it was politically and morally so simple, that it could not be recognized as a question at all. Of course, there were a great many among the Germans who were not intellectually or morally active enough to give continued attention to great public interests—many who, from convenience or petty interests of their own continued under all circumstances their usual party connections, and many who allowed themselves to be governed by the tendencies which prevailed in their environment. But the Kansas-Nebraska bill devised to

promote negro slavery proved wonderfully effective for the political emancipation of the German Americans. They everywhere began to act independently and to withdraw from the camp in which it was wished to make southern principles an absolute party obligation for northern men.<sup>1</sup>

The number of the Germans was great enough to make the importance of this fact clear to the whole people when, at last, the time came for them to give their verdict on the doings of the politicians, at the ballot-box. But as a sign of the times, it uttered on the one hand a powerful warning and on the other an encouraging word of promise. It was easier for thinking adopted citizens to see the question in all its nakedness, divested of all the real difficulties which grew out of the ambiguity of the letter of the constitution, of all considerations of equity and of older agreements, and freed from the artificial difficulties which the politicians created by their quibbling; but Americans by birth, on the other hand, felt more intensely and that fact, ultimately, more than outweighed their greater bias. The former needed only to cut loose from the leading strings, by which they had hitherto allowed themselves to be led by the politicians, while the latter were bound in every limb. But the moral indignation which had led the former to emancipation from the politicians, grew, in the case of the latter, into a holy

<sup>1</sup> According to a list drawn up by the *Cincinnati Gazette* of the German newspapers, there were 80 against the bill and only 8 in favor of it. At the annual meeting of the American and Foreign Anti-Slavery Society, held on the 10th of May in the New York Tabernacle, the following resolution was adopted: "Resolved, That we rejoice in the great unanimity manifested by the German presses, and our German fellow-citizens throughout the country, in opposition to the Nebraska scheme, so inimical to their democratic principles, to their cherished hopes, and to the renown of their adopted country."



anger, for their manhood had been trampled in the mire of political bargaining by their representatives, inasmuch as the latter, of their own initiative, had laid at the feet of the slavocracy that which the north, in endless battles with it, had saved for itself and freedom. And although that might be the legitimate fruit of earlier sins of omission and commission, the people had not degenerated. Nothing warranted estimating their insight so low as to doubt that they would follow their best men in the right path, while a considerable number of adopted citizens had already entered upon it with decision. Intellectually and morally, the Germans, on the average, far surpassed all other immigrants, but the real intellectual and moral marrow of the republic was still Anglo-American. That the Germans now began to join so emphatically in the cry: Thus far and no farther, was sufficient proof that the slavocracy and their crowd had overshot the mark, and that the core of the northern population had risen up to fight, and their watchword was: Cursed be he who first cries, hold, enough!

On the 2nd of March, the day before the decision in the senate, the *Independent* had written that the country was on the eve of a more important event than the Declaration of Independence had been. This was no rhetorical exaggeration, but a very serious fact, for on the issue of this struggle depended whether the United States would perish from the moral enervation produced by slavery or whether it had been placed in the world by the Declaration of Independence as an independent focus of civilization, for the lasting edification of mankind. The fate of the bill, in congress, was not, indeed, to be looked upon as the close of the struggle. Unless the politicians allowed themselves to be warned, the people had no means to prevent the adoption of the bill. But when the politicians supposed



that this their last word was also necessarily the last word of the people, they greatly erred, for a breath of the spirit which had dictated the Declaration of Independence stirred in the land. They did not perceive this, because their hearts, at least so far as the slavery question was concerned, were entirely dead to that spirit. But it stirred powerfully, and the works of the politicians erected in contradiction to the spirit of the constitution, that is to the real spirit of the people, ingeniously as they had been constructed and firm as they apparently were, were destined to fall before it, as the walls of Jericho once fell before the trumpet tones of Joshua.

Only to the reawakening of the spirit which had founded the republic was it due, that it was, for a time, really doubtful whether the politicians would triumph over the will and conscience of the people. On the 21st of March, Cutting of New York moved to refer the bill to the committee of the whole. Richardson, on whom, as the chairman of the territorial committee, the leading of the "Nebrascals" was incumbent, opposed the motion, with all his might, since, according to the order of business, it was in the highest degree improbable that the bill could then be disposed of during this session. Every member of the house knew that this presumptive effect was the motive for the making of the motion, and the vote was therefore, in indirect form, a vote on the bill itself. The motion was adopted by a vote of 110 to 95; 26 members were absent or abstained from voting. The joy of the opposition was great. The New York *Tribune* very confidently declared that the senate bill had been finally killed, and that it was highly improbable that any bill which repealed the Missouri compromise could be forced through, in the present house of representatives.<sup>1</sup> It rightly said that the triumph

<sup>1</sup> "That some bill for the organization of the territories may pass at

of the 21st was owing to strong agitation, and hence it cautioned people energetically against laying aside their armor, for if that were done, the victory might yet be easily turned into a defeat.<sup>1</sup>

The agitation was continued with undiminished energy, and yet it soon became apparent that the *Tribune* saw things in too rosy a light. Douglas and his co-conspirators were not the men to be discouraged by a defeat. When their opponents continued to alarm the people, they stirred about with redoubled zeal among the members of congress, and had the immense advantage that their entire strength was concentrated on from one to two dozen persons whom they could importune daily and hourly. Any means that promised success was good enough here. As early as in February, it was reported that the administration had endeavored to purchase the representatives from Pennsylvania, by the promise not to allow the iron industry to be imperilled by menacing the protective duties, and to abstain from removing the mint from Philadelphia to New York, which was contemplated.<sup>2</sup> Whether this particular rumor was well-founded or not was rather indifferent. Promises and threats had, for years, been part of the regular apparatus of legislation to such an extent, that their employment on such an occasion was simply a matter

this session, is very probable and not to be regretted; but the bill which passed the senate by such an overwhelming majority certainly cannot pass—neither this session nor ever after. And we now believe it most improbable that any bill repudiating the Missouri restriction can be forced through the present house." *The N. Y. Tribune*, April 27, 1854.

<sup>1</sup> "Let us not incite undue confidence. The measure of Senator Douglas is beaten because the people have emphatically condemned it; if they now subside into their fields, their shops, their warehouses, and cry All's well! it may be resuscitated and passed, even during this session." *I. c.*

<sup>2</sup> *New York Tribune*, Feb. 18, 1854.

of course. And as a great part of the representatives owed their position much more to the "machine" than to the favor of their constituents freely and independently given, it was always probable that these levers would prove efficient when they were applied with all possible force and at the right point. Douglas understood the business, and he had too much at stake in the game not to employ all his demagogical talent in the happy solution of the task. Complete success rewarded his endeavors.

Scarcely had the record of the preceding session been read on the 8th of May, when Richardson moved a session as a committee of the whole. He honorably announced that, as soon as his motion was agreed to, he would further move that all bills which in the order of business preceded the Kansas-Nebraska bill, should be removed from the order of the day in order to take up the consideration of the latter. The motion was adopted by a vote of 109 against 88, after which all the bills which stood in its way were put aside one after the other. Among these bills were the budgets for the administration, for the diplomatic service, for the army and for the navy. No legislative task seemed to Richardson and forty other northern representatives important enough not to be postponed when there was question of breaking down the Missouri restriction against slavery. When finally the Kansas-Nebraska bill was reached, Sherman of Ohio, asked that it too be postponed, and his motion was defeated by a vote of 105 against 85. Thus was everything lost which had been won by the vote of the 21st of March,<sup>1</sup> and the "Nebrascals" had not suc-

<sup>1</sup> "The congressional propagandists of slavery yesterday justified the menace they have for a few days past held suspended over the country. By a majority of some twenty votes the house of representatives set aside its regular order of business, postponed seventeen bills, many of



ceeded by any tactical trick, but had conquered in open battle. Immediately after the rejection of Sherman's motion, Richardson had moved "as a substitute" for the house bill No. 236, a bill which to a few unimportant verbal alterations was the Kansas-Nebraska bill of the senate; only the so-called Clayton amendment of which we shall speak hereafter was stricken out. He, at the same time, gave it to be understood that he did not intend to allow much time for the discussion, and even had the effrontery to intimate that that time should belong chiefly to the friends of the bill.<sup>1</sup>

This gave it plainly to be understood that the friends of the bill looked upon its fate as a matter already decided, and that all further talk would be useless. The vote on Richardson's motion warranted such a view, but the talk was not, therefore, destitute of importance. Richardson's motion and its success were not a surprise to the opposition, and an answer had been given it by the people, even before it had been made—if the expression be allowed—which left nothing to be desired, so far as clearness and decision are concerned. On the 4th of May, the Massachusetts "Emigrant Aid Company" had been incorporated, in Boston. The laws of congress might create a *tabula rasa*, squatter

them of the most urgent character, and took up for immediate action in committee the Nebraska-Kansas bill as it passed the senate. . . . The bill thus has the precedence whenever the house goes into committee, and will beyond doubt be the sole subject of discussion there until it is finally disposed of, by the most rapid means its advocates and agents can employ." *Ib.*, May 9.

<sup>1</sup> "I desire that those friends of the measure who are anxious to be heard shall be heard, and when they are ready to vote upon this question—

"Mr. Cobb. Its enemies too.

"Mr. Richardson. Its enemies too, though they have been heard pretty extensively already." *Congr. Globe*, 1st Sess., 33d Congr., p. 1132.

sovereignty or any other kind of a monstrosity, but so long as they did not, in express terms, declare that slavery legally existed in the territories, the demagoguery of the northern politicians and the cupidity of the slavocracy were reckoning without their host. It was not to be left to the god of chance to decide whether Kansas should be preserved to freedom or handed over to slavery. Men were found who, on this occasion, were mindful of the old saying which explains the unparalleled growth and prosperity of the free states: God helps those who help themselves! Congress was now informed by an accomplished fact that the matter would not have come to an end with its resolution, but that care was to be taken to have the country, without delay, taken possession of by as many courageous hearts and strong arms as were necessary to insure victory to the good cause in the struggle at the ballot boxes.

It need not surprise us that the partisans of the bill, north as well as south, did not measure the immense importance of this fact. If they had had something of the real statesman in them, and if they had not been mere politicians, it would necessarily have made such an impression on them that they would again have taken counsel with themselves before they burned their ships behind them. Instead of this, the certainty they had been inspired with, by the proceedings of the 8th of May, that they would be successful in congress, seemed to have deprived them completely of the capacity to appreciate the magnitude of their venture and responsibility, with even approximate correctness. On the one hand, the matter degenerated more and more into the question, what the interest of the party required, and, on the other, the vertigo of haughtiness had so seized on them that they acted as if they and the country were better served

the louder the sound of the storm bell was heard from ocean to ocean.

On the 9th of May, English, of Indiana, admitted that originally, he had not considered it opportune to proceed to the organization of the territories, but then, with much eloquence and a great expenditure of pathos went on to say that as things had developed, it was impossible not to see that a Democrat had simply no choice, because a defeat of the administration would infallibly destroy the preponderance of the Democratic party in the free states.<sup>1</sup> He seemed to think that the principle that statesmanlike wisdom and patriotism should be cast into the red-hot jaws of Moloch without objection was an inviolable princi-

<sup>1</sup> "Here is a measure which contains the same principles (as Richardson's Cass letter) which is opposed by the entire Whig delegation from the north, and by the Free-Soilers and abolitionists everywhere, but which is the leading measure of this administration, receives the unqualified sanction of the president, the support of General Cass, and a vast majority of the Democracy of the nation. How can my respected colleagues consistently oppose it? In doing so, are they not abandoning the principles of 1848? Are they not deserting General Cass, and fraternizing with the very men who basely betrayed him? Is not the effect of their opposition to weaken the administration, endanger the Democratic ascendancy by division, and thus strengthen the hands of the common enemy? Do not my colleagues see that, whether we will or no, this question must be met in the free states as a Democratic measure, and that we must sustain it, too, or have the party overwhelmed by a coalition between the Whigs, Free-Soilers, and Abolitionists? Sir, temporizing will not do. We have had too much of it already. This question must be boldly avowed and defended as a party measure, if Democratic ascendancy is to be maintained in the free states. My colleagues, like myself, are party men. They were sent here by Democratic votes, and by Democratic votes alone. I appeal to them to consider well whether this is not only a Democratic measure, right in principle, but whether, also, there is not, under existing circumstances, a party necessity for its passage. Without intending it, I much fear they are playing into the hands of those who would glory in seeing the Democracy prostrated in the dust." *Ib.*, App. p. 608.



ple of the Democratic party which could not be too loudly proclaimed to the people. He was not one of those obscure magnates who counted only when a vote was taken but did not weigh in counsel; he played a certain role in the party and was, in his way, an honest patriot; only, in the service of party he had ceased to understand that statesmanlike wisdom and patriotism are not, under all circumstances, identical with blind fidelity to party.

While English was thus preaching that the domains of the north reserved for freedom should be opened to slavery, because Franklin Pierce had thought well to favor such a measure and had thereby engaged the Democratic party thereto, an organ of the administration party in South Carolina proved in a flow of words and with a glowing imagination that the American tropics should be won and would be won by the Union to the blessings of slavery. It, in conjunction with Brazil, was to take up this great task of civilization, and the simple means to its quick and successful accomplishment, besides the necessary treaties and annexations, was the re-introduction of the African slave trade—a deed of real philanthropy!<sup>1</sup>

<sup>1</sup>In the light of subsequent events this article of the *Southern Standard* seems important enough to warrant quoting its most material parts verbatim: "With Cuba and San Domingo, we could control the productions of the tropics and with them the commerce of the world, and with that, the power of the world. Our true policy is to look to Brazil as the next great slave power, and as the government that is to direct or license the development of the country drained by the Amazon. Instead of courting England, we should look to Brazil and the West Indies. The time will come when a treaty of commerce and alliance with Brazil will give us the control over the Gulf of Mexico and its border countries, together with the islands, and the consequence of this will place African slavery beyond the reach of fanaticism at home or abroad. These two great slave powers now hold more undeveloped territory than any other two governments, and they ought to guard and strengthen their mutual interests by acting together in strict harmony and concert. Considering our vast resources

If this had been only the silly talk of an obscure writer for the press who wished to regale his readers with an extra sensation, it could not, considering the feeling which the Kansas-Nebraska bill had called forth, have remained unnoticed. But we shall soon see it proved that there was a great deal of frightful earnestness concealed in these wild fancies, and the entire people knew enough of it not to feel tempted to treat them with ridicule. The whirlpool created by the unholy union of the slavocracy and

and the mighty commerce that is about to expand upon the bosom of the two countries, if we act together by treaty we cannot only preserve domestic servitude, but we can defy the power of the world. With firmness and judgment we can open up the African slave emigration again to people the noble region of the tropics. We can boldly defend this upon the most enlarged system of philanthropy. . . . The time is coming when we will boldly defend this emigration before the world. The hypocritical cant and whining morality of the latter-day saints will die away before the majesty of commerce and the power of those vast productions which are to spring from the cultivation and full development of the mighty tropical regions in our hemisphere. If it be mercy to give the grain-growing sections of America to the poor and hungry of Europe, why not open up the tropics to the poor African? The one region is as eminently suited to them as the other is to the white race. There is as much philanthropy in the one as in the other. We have been too long governed by psalm-singing school-masters from the north. It is time to think for ourselves. The folly commenced in our own government uniting with Great Britain to declare slave importation piracy. . . . The time will come that all the islands and regions suited to African slavery, between us and Brazil, will fall under the control of these two slave powers, in some shape or other, either by treaty or actual possession of the one government or the other. And the statesman who closes his eyes to these results, has but a very small view of the great questions and interests that are looming up in the future. In a few years there will be no investment for the two hundred millions, in the annual increase of gold on a large scale, so profitable and so necessary, as the development and cultivation of the tropical regions now slumbering in rank and wild luxuriance. If the slaveholding race in these states are but true to themselves, they have a great destiny before them." Pike, *First Blows of the Civil War*, pp. 227, 228.

Young America raged more wildly every day, and the heart of many a patriot sank within him, at the thought that it might yet swallow up the republic. What could still seem too bold or too shameful, after the repeal of the Missouri compromise had been forced through? Regardless of consequences was publicly proclaimed as the watchword, and this not in the haughtiness born of the certainty of victory but methodically and as part of a well laid plan. And if the political Shylocks were resolved to cut a pound of flesh nearest the heart out of the north, because it was not fully converted to the true faith in southern principles, was it not right policy to make it fully conscious by the manner in which the deed was done, that it could not wrest itself from the iron grip of the slavocracy and of the political machine?

Richardson's patience was exhausted sooner than the opposition had expected, after his arrogant utterance of the 8th of May. On the 11th he moved to close the discussion on the following day, and cut off all debate on this motion by calling for the previous question. Giddings contrasted the "four days" which it was wished to allow for the discussion of this bill with the seven months during which the admission of California into the Union had been striven for, but he was immediately cried down by calls for order.<sup>1</sup> It was idle to appeal to the equity and feeling of decency of the majority. It was the majority, and on that very account resolved to assert its will: these were two facts which refuted every argument. But even if it were able to put an end to the warnings and denunciations of the opposition, the latter had it in their power not to allow themselves to be gagged until after a struggle which would not only put the majority to a severe test but

<sup>1</sup> Congr. Globe, 1st Sess., 33d Congr., p. 1161.



which might readily make a much more disagreeable impression on the people than a few dozen speeches more would have made.

The possibility, by means of the complicated order of business, of making the parliamentary coach hum on its axles and not budge an inch for hours and even days, has frequently been most grossly abused in congress and in the legislatures of the several states, but it has also frequently prevented the worst oppression of the minority or, at least—which as a rule is almost of equal value—placed in the most glaring light the fact that the minority had been oppressed in a monstrous way. The present was such a case, one in which the order of business might, in a bad way be turned to account for a good end, and the minority were resolved to do it, to the fullest extent. Dilatory motions followed one on the heels of the other; hour after hour elapsed; but it was not possible to reach Richardson's motion. Douglas himself appeared upon the scene, directed, intrigued, incited,<sup>1</sup> all in vain: the opposition stood firm, parried every blow and never failed to worst the majority. The night had passed and the new day was approaching its end, but not the slightest progress was made. Vexation and exhaustion drove a part of the majority to seek consolation and strength more and more frequently from Bacchus. The whole future of the country lay in the violently oscillating scales of fate and a part of the legislators were so "full and foolish" that

<sup>1</sup> He is reported to have said himself of the part he played in the Kansas-Nebraska struggle: "I passed the Kansas-Nebraska act myself. I had the authority and power of a dictator throughout the whole controversy in both houses. The speeches were nothing. It was the marshalling and directing of men, and guarding from attacks, and with a ceaseless vigilance preventing surprise." Cutts, *Treatise on Constitutional and Party Questions*, . . . as I received them from St. A. Douglas, p. 122.

if there had been question of a common crime, the excuse of drunkenness might have been entered as an extenuating circumstance. Mike Walsh of New York, whom the house always greeted with cheers when he produced himself as an adept of the streets and low drinking places and gave vent to his coarse humor, was snoring in his chair, his head bandaged with a pocket-handkerchief, and throwing in a word from his drunken stupor into the tumult whenever the noise roused him from his sweet dreams. Edmundson of Virginia, had while still sober yielded to the temptation to try to intimidate the opposition by provoking a quarrel, and he now in his drunkenness wished to cool his hot blood by a resort to blows or something worse, so that the sergeant-at-arms was obliged to appear with the mace, in order to prevent the shrieking and howling house from engaging in a general scuffle.<sup>1</sup> But

<sup>1</sup> The Washington correspondent of the *N. Y. Tribune* gives the following description of the proceedings in the house: "The telegraph will tell you of the row in the house, but you can have no idea of the scene as it occurred. Douglas was in the house directing his followers, and with the exception of a few hours, was there all the time during the struggle. They charged him with counseling revolution and violence in order to accomplish his purpose. It is charged that he attempted to tamper with the speaker (L. Boyd), and to get him to override the rules, but the speaker repelled his suggestions. Then, it is charged that he tried to get up a plan for overruling the speaker's decisions, which plan failed! It is further charged that the Nebraska men have avowed their purpose in due time, 'to take the rules into their own hands, and take the responsibility and pass the bill anyhow.'

"There is no doubt that Edmundson was put forward to begin a fight, and that Douglas was cognizant of it. He, Edmundson, had in the course of the evening tried to get up a quarrel with Wentworth of Illinois, and with Sage of New York. Campbell of Ohio, was making some remarks in reply to Stephens. Edmundson, armed to the teeth, and under the influence of liquor, came up and demanded what right he had to declare his course of action—that if he, Campbell, wanted to make any further opposition to the bill, he was the man who would

the minority neither allowed itself to be intimidated, wearied nor surprised. After a session of thirty-six hours, the majority vacated the field. The session which had begun on the 11th of May, at noon, was closed on the 12th, half an hour before midnight, without result, by adjournment. During the next session, on Saturday, May 13, the majority did not resume the struggle. Hunt of Louisiana, who belonged to the opposition, called attention to the fact that the *Washington Union* had dared to misrepresent the incidents of the previous night in its report, and Richardson himself sanctioned its correction. This was the work of the day. Without having accomplished anything the house again adjourned, on Richardson's motion, until the following Monday.

This valiant resistance of the opposition and its success had awakened again for a moment, in the circles of the opposition, the hope that the "Nebrascals" would not, after all, accomplish their design.<sup>1</sup> This was an illusion for an attack had only been repelled but no victory won. The majority had only not been able to bring about a decision

meet him personally. Campbell indignantly repelled his interference, when Edmundson began to unbutton his vest, for the purpose, it is supposed, of getting out his bowie knife, when Campbell, who was unarmed, threw his arms behind him, and defied him to lay his finger upon him. At this juncture an immense crowd had rushed to the scene, and several persons had got between the two, and immediately the sergeant-at-arms rushed up with his mace. Had Edmundson laid the weight of a feather upon Campbell the result would have been deplorable. A general fight would have ensued, and heaven knows with what results." *The N. Y. Tribune*, May 15, 1854.

<sup>1</sup>The *N. Y. Tribune*, of May 13, writes: "The contest shows that wrong cannot triumph if it be earnestly resisted. We trust this strenuous conflict will awaken the country to the perilous condition of public affairs, and stimulate and encourage that indomitable minority who have achieved this victory to still greater efforts hereafter, if they shall be demanded in order to preserve the advantage already obtained. That minority has tested its own force and found it at once reliable



at the moment they had wished, but they had lost no votes and, in respect to the principal question, therefore, the struggle of the 11th and 12th of May had not altered the least thing. On Monday, Richardson condescended to grant the opposition a few days more to continue the speech tournament, and then was able to reach his end without any great difficulty. He altered his resolution of the 11th of May to the effect that the discussion should be closed on the following Friday, and called for the previous question for this motion. Before the vote was taken, Dickinson moved to suspend the rules, that he might make a motion to place the bills again in the order in which they had stood before the resolution of the 8th of May. The house refused by a vote of 121 to 75 to suspend the rules, but immediately after suspended them by 137 to 66, in order to bring Richardson's motion before the house. Eighteen northern Democrats who had hitherto gone with the opposition now voted with the majority, and only two of these eighteen needed to have stood by their old associates to keep Richardson's motion from being adopted, for the suspension of the rules calls for a two-thirds majority. There was no ground to suspect that the eighteen had abandoned their flag so far as the principal question was concerned; all they wanted was to put an end to the combatting of the majority by means of the order of business. The remainder of the opposition accused them of having been determined to take this course by the spirit of party which was still alive in them. This was certainly not improbable, but it could not be proved, and above all, it did not change the fact that the vote on

and effective. Let it retreat from no position that it has gained. But let it resolutely stand upon its advantages, husband its strength, and determinedly prepare for the future." Pike, *First Blows of the Civil War*, p. 225.

the suspension of the rules was the beginning of the end. Richardson's motion which was, in the meantime, altered to the effect that the debate should be closed on Saturday the 20th of May at noon, was adopted by a vote of 112 against 59.

The only question now was how the majority would reach their end; that they would reach it, was certain, beyond a doubt. In the editorial rooms of the opposition journals, there was no longer any deception on this point; they only did not say so in print, in order that resistance might remain as vigorous as possible to the last moment. It was, indeed, only too intelligible that deep depression now took hold of those who were not strong enough to prevent every other feeling which they possessed from growing bitter. The defeat which the north now suffered was, in an infinitely greater degree than all previous ones, the direct work of northern men, and hence the disgrace became not only almost unbearable, but even leaving the contents of the law out of consideration, its significance was, on that very account, much greater. The saying of John Randolph that the south governed the north by its own white slaves had become a truth in a manner and to an extent which made the material question for the north henceforth not how it should guard itself against slavery, but how it could save itself from itself. The slavocracy governed the Union because the northern representatives became its servants, but the northern population made these people its representatives although, and to some extent because, they were servants of the slavocracy. In the last analysis, the responsibility rested with the people. Hence Randolph's saying was applicable not only to the politicians, but it was true also of those who allowed it to happen and co-operated to bring it about, that the politicians, from political stupidity, sacri-

ficed the honor and future of the country or from ambition and selfishness sold them for the mess of pottage of place and office.

When the deeper causes of this excess of guilty abasement were sought for, the best consolation was found in them; for what had led to its fall, afforded the certainty that the north would rise again. Seward was unquestionably right when he said that one of the principal reasons of the continued defeats of the north, had been the consciousness of its superior strength.<sup>1</sup> It only needed to will, to break the yoke, and now the recognition was forced upon it, by the slavocracy and its following, that it had to will, if the republic, as the fathers had founded it, was to be saved. And just as certainly was G. Bailey, the publisher of the *National Era*, right, when he characterized the old party bonds as one of the principal reasons why the north had hitherto not willed as will it must. If it was not decisive of the issue of the struggle, it greatly lessened the force of resistance, that the opposition was not an entirely solid mass, but consisted, to the last, of two groups and a few individuals, opponents from the southern states.<sup>2</sup> But the majority took care, that this should be

<sup>1</sup> "If you inquire why they (the free states) do not stand by their rights and their interests more firmly, I will tell you to the best of my ability. It is because they are conscious of their strength, and therefore, unsuspecting and slow to apprehend danger. The reason why you prevail in so many contests, is because you are in a perpetual fear. . . . We are young in the arts of politics; you are old. We are strong; you are weak. We are, therefore, over-confident, careless, and indifferent; you are vigilant and active." Congr. Globe, 1st Sess., 33d Congr., App., p. 770.

<sup>2</sup> Bailey writes, on the 21st of May, from Washington, to Pike: "Party names and prejudices are the cords that bind the Samson of the north. All day yesterday our friends in congress were without organization. They could not forget they were Whigs; they were Democrats. Preston King, and myself worked for a common caucus, and at



the case no longer. It made it impossible for the resisting elements to remain any longer in the party organizations which had hitherto existed, and thereby compelled them, in the real sense of the word, to make resistance the basis of the formation of a new party.

These causes and a third, still more material, of which we shall yet speak, left the majority in a by no means satisfied mood; although they were certain of victory. The leaders had not succeeded in completely banishing lukewarmness and doubt, and hence, to the last, they urged their adherents forward with heavy blows, as if they considered another change not absolutely impossible. The south, as Bell stated in the senate, had not expected, that the repeal of the Missouri compromise would call forth such excitement.<sup>1</sup> He was very unpleasantly surprised, and more

last, just as the house adjourned, it was agreed by leading men on both sides, . . . to meet together in a common caucus at eight o'clock in the evening. Mr. Upham, who gave me an account of the meeting, says it was well attended from both parties. The caucus will meet again Monday morning. There is now a fair prospect of a good organization, mutual forbearance, and a respectable fight.

"But the bill will pass. Don't say so—prepare for it." Pike, *First Blows of the Civil War*, pp. 233, 234.

<sup>1</sup> "Sir, did the honorable senator (Toombs), when he first gave his adhesion to the repeal of the Missouri compromise, anticipate such a state of things as now exists at the north? I did not believe myself, during the period of the initiation of this measure, that the excitement would be so great at the north. I spoke with northern gentlemen about it. They thought there would be a deep feeling implanted at the north against the measure, but no great excitement would be created, except perhaps, at the meetings which might be got up in the populous cities. Did any gentleman of the south, however, believe that such a state of things as now appears to exist at the north would arise? It may be that excitement and agitation at the north may subside. The present bubbling of the cauldron may soon evaporate after the passage of the bill; but the cauldron certainly exhibits a very high degree of fermentation and excitement just now." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 939.

than one southern representative became untoward. The administration considered it necessary, through the *Washington Union*, emphatically to call attention to the fact, that there was question of fully insuring, within a short time, the acquisition of Cuba, by the Kansas-Nebraska bill.<sup>1</sup> And while the organ of the administration appealed so energetically to the interest of the slavocracy, Richardson bestirred himself just as energetically to dissipate the fears that arose. There was nothing, he said, to be feared so long as people held firmly together. Differences in questions of detail had to be set aside and all amendments to be voted down. If people now began to waver and to think of surrender, they were irredeemably lost; while if they advanced regardless of consequences and ended the matter, the storm artificially excited would blow over without doing any harm.<sup>2</sup>

<sup>1</sup> "If the principles of this bill ended with Nebraska and Kansas; if they did not mean to apply to all future acquisitions; if they did not rally men of all sections of the Union, and prepare northern sentiment for those great events with which the future teems; we might more fully understand the hesitancy and doubt of some of our southern friends, if such doubt and hesitancy really exist. When Cuba is admitted into the Union—as in the course of thick coming events she is bound to be admitted—and when the south turns to the great constitutional party of the north, already committed to that great act for aid and for counsel, let us not be compelled to find the seats in congress, now occupied by staunch friends of the rights of the states, filled by abolitionists and northern Whigs, elected to the national legislature by the refusal of the south in the present issue, to recognize a great principle upon which, in all time, the friends of the Union might stand and defy the worst combinations of northern fanaticism." Printed in the *N. Y. Tribune* of May 17, 1854.

<sup>2</sup> " . . . Our danger and our sole danger consists in our divisions. I want to say right here to our northern friends, that our fortunes are linked up with this bill. The assault is made upon you. Your names are in every abolition sheet in the land, in what they call 'the roll of infamy.' If we falter under such a fire as this, there is no arm but that of resurrection that can reach us. Take my word for it, you

It was evident that it was believed there really might be danger in delay, for the advice was immediately followed, in a manner which crowned the whole false game. And besides, there was found a person who not only belonged to the most distinguished politicians of the south, but who, as a man and a statesman, possessed qualities which deserved respect and even admiration, in a very high degree. The moral poison of slavery manifested itself most strongly in the fact, that where the interests of slavery were in question, even the best of men frequently lost sight of the commands of morals and honor, and did not recoil from the most unworthy tricks which led to the goal they were seeking.

Alexander H. Stephens was, in 1848 and 1850, one of the most decided opponents of the doctrine of non-intervention, and had even declared it to be the duty of congress to exercise its legislative powers in respect to slavery, claiming, indeed, that its duty consisted in guaranteeing to slave property, in the whole territorial domain of the Union, the same protection as to all other property, and, with strange inconsistency expressing himself, at the same time, in favor of a fair and just division.<sup>1</sup>

will find that to be true. You never make anything in one of these political fights by yielding. Fight it out, and fight it ever. Our safety consists in standing together. If we fall, let us fall together, and fall fighting. Let us ask no quarter and give none." Then turning to his southern friends, he said: "If we stand firm, and pass the bill, my word for it, that the excitement which has been manufactured at the north will blow over before the elections next fall, or, at all events, just after them. . . . Let me say to the friends of this bill, that the best course we can pursue, is to vote down all amendments, stand by the substitute, and pass it." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 796.

<sup>1</sup> In a speech of June 13, 1850, he said: "I have from the beginning been, as the gentleman from Mississippi (Thompson) says he is, in favor of the extension of the Missouri compromise line, or some other



6- He had from the first favored the Kansas-Nebraska bill with all the energy of his ardent temperament, and now at the last moment, he assumed the leadership. He thus placed his skill as a parliamentary tactician in the most brilliant light, but his manœuvre over this question is the darkest blot upon his name which will be ever held in respectful memory, even in the north, although he was vice-president of the confederate states.

In accordance with the resolution of the 15th of May, the general debate was closed on Saturday, the 20th, at noon. Immediately after this, the sections were considered, one after another. At this stage of the deliberation, the amendments are introduced. Only five minutes are allowed for speeches for or against a proposed amendment. What was now wanted was not words but action, and acts are frequently more eloquent than the greatest speeches. Now too, all the magnificent speeches on the

fair and just division of the territory. But I want no division which will not give as ample protection to the south, in the enjoyment of her portion, as it does to the north. The extension of the Missouri compromise, without the recognition of slavery south of that line, and all necessary protection, would be a perfect mockery of right, just as much so as the doctrine of non-intervention.

"This was my position two years ago upon this floor, and upon which I then declared I should stand or fall. I hold that, upon the acquisition of these territories, their government devolved upon congress, and that it was the duty of congress to pass all necessary laws for the fair and equal enjoyment by all the people of the United States, or such of them as might go there with their property of every description.

"As a difference of opinion exists between the north and south upon the subject of slavery, I thought, and still think, that for the purpose of such equal and just enjoyment, a division of the territory would be best. That congress had power to pass all such laws I never doubted—indeed, I was amazed at the position of those who claimed the constitutional right to carry and hold slaves there, and yet denied to congress the power to pass laws for the protection of their rights. The doctrine of non-intervention denied that power." *Ib.*, p. 582.

"great principle" of the bill were answered by the fact that two almost similarly worded amendments by Mace and Fuller, which expressly recognized the right of the territorial legislature to permit or prohibit slavery, were rejected by a vote of 94 to 76 and 91 to 75 respectively.<sup>1</sup> Hence the house as well as the senate refused to give the bill a form establishing the principle of squatter sovereignty, in a manner which could not be assailed. The causes assigned for the refusal were different but not better: it was resolved, in accordance with the advice so strongly given by Richardson, and with which he had closed the general debate, to vote down all amendments, acceptable or not. Whether this would justify every vote against an amendment, in the eyes of constituents, was very questionable. It seemed safer, and was certainly more convenient to allow no amendments at all to be proposed, the rejection of which might displease the crowd. Stephens found a way to effect this.

When the house, on Monday the 22nd of May, began, in committee of the whole, its deliberations on the Kansas-Nebraska bill—bill No. 236 of the house—once more, Stephens immediately made the "privileged motion," to strike out the enacting words of the bill. Frankly and without any circumlocution, he explained how he intended to coerce the minority by this motion—to coerce them ten times harder than Richardson had wished to do, by his motion of the 11th of May; for that the minority was to be prevented from speaking as long as it thought it had something to say was very unimportant in comparison with that it should be prevented from proposing any amendments whatever. Section 119 of the order of business provided that the striking out of the enacting words should be considered as the rejection of the bill. If

<sup>1</sup> Congr. Globe, pp. 1238, 1239.

Stephens' motion was adopted, therefore, the consideration of the bill, in the committee of the whole, was ended, and the latter had to report to the house that it had rejected the bill in the manner mentioned. The house was then to refuse its assent to this resolution of the committee of the whole, that is the majority was, in the space of a minute directly to contradict itself, in order to withdraw the bill from the committee of the whole and bring it before the house. If this were done, Richardson might introduce his substitute—the senate bill without the Clayton amendment. To the question put by Drum of Pennsylvania whether it was intended then to call the previous question, Stephens answered that the object of the entire manœuvre was to bring the substitute immediately to a vote.

The minority could do nothing but enter an indignant protest against the fact that the order of business was thus shamefully misused to muzzle the minority.<sup>1</sup> Such a thing had never been attempted even in the old days of gag rule. But Richardson had said plainly enough: No quarter—such was the watchword of the policy intended to establish peace for all time. Stephens' motion was adopted by 103 votes. The minority at first took no part whatever in the vote, but finally 22 voted nay. Then the house by 117 against 97, refused to agree to the report of

<sup>1</sup> Even the Charleston *Mercury* loudly expressed its disapprobation of the manner in which the victory was achieved: "The effect of a victory thus won will be to make majorities more intolerant of opposition and regardless of the claims and arguments of the weaker side. . . . It is a fearful stride to that fatal evil which ever impends Democratic institutions, when minorities, their protests, appeals and rights, are unheeded in the remorseless tread of majorities." Cited in the N. Y. *Tribune* of the 31st of May, 1854. Campbell afterwards said that Olds of Ohio was considered the real father of the idea. Congr. Globe, 2d Sess., 33d Congr., App., p. 47.



the committee of the whole, and, at last, Richardson's substitute was adopted by 113 against 100 votes. Of the southern representatives 4 Democrats and 5 Whigs had voted against the bill; the northern Whigs stood solid in the minority, and the northern Democrats were equally divided—43 against 43. From the north, 88 delegates had voted against and 43 for the bill. It was, therefore, strange to claim that the north had offered the south to repeal the Missouri compromise, or even forced it on the south. Of the Democrats, 100 stood in the majority and 47 in the minority. Those who by means of this stroke chiefly, wished to cement anew the broken Democratic party might, therefore, again have an opportunity to reflect whether they, from the point of view of party interest, had reason to rejoice with Richardson, because these scabby sheep had separated from the healthy flock.<sup>1</sup> Of the southern delegates finally 70 had voted for the bill and 9 against it. If, therefore, the law had very different results from what the slavocracy expected, they had not others to blame. Translated into words, these figures answered their complaints with a, *Tu l'as voulu, George Dandin!*

The bill now went back to the senate, which had to decide whether it would renounce the Clayton amendment. This amendment, adopted on the 2nd of March, by 23 against 21 votes, had limited the right of suffrage, in the territories, to citizens of the United States. The bill, in its present form, extended the right of suffrage to those

<sup>1</sup> "Some gentlemen of the Democratic party tell us that they have thus far gone with us, but cannot go any further with us. For one, I am glad to get rid of you, if you cannot stand up to the principles of justice and equality among the states—the ability of man to govern himself. If you cannot stand up to them, the sooner you leave the Democratic party the better." Congr. Globe, 1st Sess., 33rd Congr., App., p. 796.

who had, under oath, expressed their intention to become citizens, and who had also pledged themselves to the constitution and to the provisions of this law; it was left to the territorial legislature to determine what should be done, in this respect, later. This alteration was certainly not indifferent; it gave occasion to the raising of interesting constitutional questions, and politically it was of the most decisive importance. This, however, is not the place to discuss these things, for, in themselves, they had nothing to do with the question which gives the Kansas-Nebraska bill its importance in the history of the world. Looked at from this point of view, the Clayton amendment was of consequence, only because the majority of the senate retreated from their previous resolution, for the express reason, that the bill would otherwise be lost, and not as Petit remarked, for this session only, but probably forever.<sup>1</sup> Clayton who undauntedly defended his motion,

<sup>1</sup> "No senator can shut his eyes to the fact that if we again incorporate this provision in the bill, all our labor, all our exertions, all our anxieties during the whole of this long session will have been nought, and fall to the ground, if this provision shall succeed. If that is to be the case, let me warn senators that they must take the consequences upon their own heads. Let me warn senators that it may not be possible again, for years to come, to get a body of men together, in the two houses of congress, with this exciting, fanatical question hanging over them, who will settle, as we have settled, the great and the only principle involved in this bill. . . . Sir, the consequences of putting this bill in hazard now will be dire and calamitous. You may have not only the protestations and the anathemas of three thousand clergymen, but they may be trebled and quadrupled before another meeting of congress. What is the result? Is it not plain? I will not conceal it. I need not. If you throw back this question so as to enter into the election of members of the other house, and one-third of the members of this house, what will be the result? I speak what all men must know, when I say that ultra abolitionists, moderate abolitionists, Free-Soilers, contemnners of right, and law, and justice, together with tender-footed or timid Democrats, will unite with Whigs upon any class of men to defeat those who are in favor of a

sharply and rightly answered that if the bill could not again be adopted by the house if it was sent back, with an amendment—whatever the import of that amendment might be—it had not the first time received a real majority, in which case it should not become a law.<sup>1</sup> And Wade asked just as correctly and more incisively, with what right Petit called himself a Democrat and advocated popular sovereignty, when his declaration meant that the people should not be allowed the possibility to declare their will, in an authentic manner, since it would then, infallibly be seen, that they were on the side of the majority, i. e. that the majority of the present congress who had been chosen without any reference to this question knowingly and industriously thwarted the will of the people. This was so evident that a refutation of the charge was not even attempted. On the contrary, Mason, Mallory, Jones, etc., who had previously voted for the amend-

sound and legitimate administration of government." *Congr. Globe*, 1st Sess., 33rd Congr., p. 1304.

<sup>1</sup> "And now it (the amendment) is not to have a fair trial here, because it is confidently said by more than two-thirds of its friends, that though they are conscientiously and unalterably in its favor, yet the Nebraska bill will be defeated if the house of representatives are again intrusted with the power over it which they would have by returning it to them with any amendment to it. If that be true, the bill ought not to pass, because there cannot be a real majority in its favor. The senator from Indiana (Mr. Petit) asserts, also, that if the bill does not pass now, it never will pass, because there will never be another majority for it. But the fact is, there are certain members of the other house who are afraid, if the amendment goes back to them, they will be compelled to vote for it, or be ruined at home; and they labor with their friends here, who are also friends of the bill, to defeat it in the senate on some pretext which will save themselves from the danger of being held to be enemies of the principle contained in it." *Ib.*, App., p. 760. There was presumably some truth in this last assertion, but it was, at best, something of entirely secondary consideration. Even Clayton himself scarcely believed that Petit's fear was no more than a pretense.



ment, defended their change of vote by Petit's reasoning only in a somewhat less compromising form. The hazardous character of this confession did not escape them, but they were so deeply engaged in the question, partly by previous utterances of theirs, and partly by the feeling in their respective states, that they could not desist from the amendment, without an explanation; and if they gave any reason at all for their step, they could give only the real one. But Petit's assertion was undoubtedly correct, and, considering how the whole affair had been treated by the majority, all other considerations were silenced by this argument. The Clayton amendment which had been again taken up by Pearce was rejected on the 25th of May, by 41 against 7 votes; of the majority, 14 had voted on the 2nd of March for the amendment. On the same day, by a vote of 35 against 13, the third reading was resolved on, and on the 30th of May the bill received the signature of the president.

On the eve of the civil war, Stephens declared that the law had been hailed with satisfaction by the entire south.<sup>1</sup> This satisfaction could, however, not have its origin in the expectation that the promises of peace would be fulfilled. It was not for a moment doubtful, that Richardson was a false prophet, when he so emphatically claimed that, with the decision, the manufactured excitement in the north would come to an end. The New York *Tribune* expressed the feeling of the entire opposition, when it declared, on the 22nd of May, that the north would never recognize this settlement of the sectional quarrel.<sup>2</sup> An address of

<sup>1</sup> On the 9th of May, he writes to several gentlemen in Macon: "Never was an act of congress so generally and so unanimously hailed with delight at the south as this one was—I mean the Kansas-Nebraska Act of 1854." Johnson and Browne, *Life of Al. H. Stephens*, p. 360.

<sup>2</sup> "Be it understood, then, once for all, that the triumph of Douglas

the opposition in congress, a month later, formally made the same declaration.<sup>1</sup> Nor were they satisfied with words, but began immediately to act. On the 24th of May, the *Tribune* drew up the programme: Union of all the elements of the opposition for the restoration of the Missouri compromise and the immediate possession of Kansas by emigrants of the right kind.<sup>2</sup> Success of course depended on the union of all the elements of opposition, and people did not conceal from themselves, that, in this respect, great difficulties would have to be overcome.

The small handful from the south who, in the senate and house of representatives, had gone their own way, had rendered most acceptable assistance, and it was, therefore, intelligible that some wished to draw them into an alliance, and thought of assigning them a leading part. But if this were done, success was simply impossible, and if now the movement of emancipation was again arrested without result, things would become ten times worse than they had been, and perhaps rescue would be no longer possible at all. The struggle could not be confined to the restoration of the Missouri compromise; because this could not be obtained, the struggle would, strive as people would against it, grow gradually to a struggle in all things

and Co. will not be accepted by the free states as a settlement of the question which it raises—that it will not be acquiesced in as final or respected as constitutional.”

<sup>1</sup> “For ourselves, we are ready to do all that shall be in our power to restore the Missouri compromise, and to execute such further measures as you in your wisdom shall command, and as may be necessary for the recovery of the ground lost to freedom, and to prevent the further aggressions of slavery.” The *National Intelligencer*, June 22, 1854.

<sup>2</sup> “Be it understood, then, once for all, that the triumph of Douglas and Co. will not be accepted by the free states as a settlement of the question which it raises—that it will not be acquiesced in as final or respected as constitutional.”

against the slavocracy; and to such a struggle, the Bentsons, Bells, Houstons, Culloms, Hunts, etc., could no more be won over, than could the Hunters, Butlers and Masons. Years, indeed, elapsed before events allowed it clearly to be perceived that this was the logical process of development of the struggle, but the causes which determined it operated from the beginning so powerfully that the idea which arose in the first moment, of a further co-operation from the southern states, with the opposition, could be carried on no longer.

It was much harder to become master of the party spirit which was yet very strong with many. The Whigs held the numerical preponderance in the opposition and, in general, their standpoint was a more decided one. Hence the most influential personages of the party could not renounce seeing the great struggle fought out under the Whig flag. But the left wing with whom, because of their more radical position on the slavery question, party ties were much looser, saw that if this were done, success would be impossible from the start, for in the first place, the number of those in the party who approximated rather closely to the category of the dough-faces was very considerable, and, in the second place, the part of the Democratic opposition who were now ready for the formation of a new party refused to become Whigs, under any circumstances. The fiery elements systematically urged the immediate organization of a new party,<sup>1</sup> and this move,

<sup>1</sup> Bailey, the publisher of the *National Era*, already mentioned, writes from Washington on the 30th of May to Pike: "Preston King has been here. He is anxious for a general break-up of old organizations—would vote for anybody for president on a distinct anti-slavery issue—whether Seward, Benton, Hale, Houston, or anybody else. He suggested a ticket—Benton for president, Seward for vice-president, with the understanding that Seward should come in in 1860 as president. But how to bring it about is the puzzle. He wants no more



which had its origin chiefly in Ohio, had so much success immediately, that even southern witnesses can be called to prove that abolitionism showed stronger signs of life every day.<sup>1</sup>

Had the south a right to complain of this? The only principle, as Peckham had told it, on the 18th of May, which the bill established was the principle that no agree-

national conventions. Truman Smith and Wade go for a party of freedom—want nothing more of the old organizations. Seward hangs fire. The *Albany Evening Journal* of Friday evening, 26th, speaks his sentiments. God help us if, as a preliminary to a union of the north we have to admit that the Whig party is the party of freedom! Can't they see the folly of pressing this? The Whig party has been a noble party in its day, in many respects; and its northern section, on the whole, has been less adverse in its action to freedom; but you know, we all know, it was not organized with any view to anti-slavery issues; that as a national party it has never been sufficient for the protection of freedom; that the great question now upon us must be met by a different kind of organization, by new tactics, by new ideas. Do say a word to the *Journal*. See how gloriously they have struck out in Ohio—the old *Cincinnati Gazette*, the central organ of Whiggery, the *State Journal* and the *Cleveland Herald*, once silvery grey, all giving up the name and organization of Whig, and calling for a union convention of the democracy of freedom. Such a movement at once absorbs all the independent Democrats and all the liberal old line Democrats in the state. Can't you expand the *Journal*? At all events, hail and sustain the Ohio movement. It is the beginning." Pike, *First Blows of the Civil War*, pp. 237, 238. The *Pittsburgh Gazette*, The *Hartford Courant*, the *Otsego Democrat* and the *Troy Whig* carried on an agitation in the same sense as the papers mentioned by Bailey." See the *N. Y. Tribune*, May 30, 1854.

<sup>1</sup> The *Louisville Journal* published by John D. Prentice, writes: "The passage of the Nebraska bill seems utterly to have overwhelmed all distinctions in the press of the north, to have swept away every established line of demarkation between political extremes, and to have mingled all into one fierce, undistinguished mob of open abolitionists and disunionists. Presses that have hitherto consistently controverted the mischievous fallacies, and uniformly and effectively rebuked the hellish spirit of abolitionism—presses that have stood firmly by the rights of the south in every emergency of the past, that warmly supported the compromise of 1850, the Fugitive Slave

ment had any claim to be respected.<sup>1</sup> And again on the 25th of May, Seward warned it not to forget that the Kansas-Nebraska bill would be an ordinary law, which was liable, at any moment, to be repealed, without the slightest violation of any moral obligation.<sup>2</sup> This it was that made this law the starting point of a new phase of the great struggle. The ultimate reason why the weaker south had always prevailed over the stronger north, was that the latter had looked upon itself as morally bound. This tactical key of its position, the slavocracy had now in its blindness surrendered. In the deep and honest conviction of the core of the population of the northern states, the Missouri compromise had been as holy a compact as any agreement entered into under the constitution. By the destruction of that compact, the south, therefore, had relieved the population of the north of all the obligations which it had entered into by that agreement. The compromises of the constitution itself in respect to the slavery question were shaken, for they had always been very variously interpreted in the north, and it was at least no longer bound by the interpretation which had hitherto been considered the governing one, for the reason that on that

Law included, and that were even proscriptive in their advocacy of that measure before the people, are now found side by side with the *New York Tribune*, and its fiercest and most infuriate abolitionist allies, in launching unmeasured abuse and denunciation against the south, and in proclaiming a scheme of warfare upon southern institutions, which, if executed, will as certainly dissolve the Union as the night follows the day." *Congr. Globe*, 1st Sess., 33d Congr., App., p. 1025.

<sup>1</sup> "Sir, this bill settles no principle for the future but one. It does settle the principle of disregarding all compromises, all compacts, no matter what their solemnity or their duration." *Ib.*, p. 871.

<sup>2</sup> "Remember, now, that by unanimous consent this new law will be a repealable statute, exposed to all the chances of the Missouri compromise. It stands an infinitely worse chance of endurance than that compromise did." *Ib.*, p. 770.



interpretation were based the various compromises under the constitution. The act of the slavocracy and its accomplices had given it a freedom of will and action such as it had not had since the 12th of February, 1793, the date of the first law on the extradition of fugitive slaves. In the name of eternal peace, Douglas and his associates had broken down the Missouri compromise, and thus cleared the arena between the north and south so that the differences of their principles and interests might, as they must, come into violent collision with one another. The constitutional basis on which the relation of the territories to the federal government had hitherto reposed was destroyed and a confusion of words put in its place, in which the authors of the act concealed two opposite principles. On the soil of Kansas the north and south, were to, and must, measure their actual strength; all the legislation relating to the slavery question was no longer bound to have any connection with the legal relation created by earlier laws. The principle, might before right, was not proclaimed, but such a form had been given to affairs that it might almost seem entirely at the caprice of the majority for the time being in congress, to say what the law was. The moral rein with which the weak south had thus far ridden the strong north, in the service of demoralizing slavery, was so nearly broken that if drawn tighter it would necessarily snap, and the core of the northern population interposed with all the weight of its moral and political conviction.<sup>1</sup> Even the fear of imperilling the Union no

"From the moment that the Nebraska bill passes—if it is to pass—the politics of the country will be upon a new footing. The interposing partition of compromise being removed, slavery and freedom, in other words, despotism and democracy, will stand face to face for a desperate and deadly struggle." *The New York Tribune*, May 20, 1854.



longer held it back, for it no longer believed the Union would be imperilled.<sup>1</sup>

<sup>1</sup> Fessenden: "Gentlemen have talked here of a dissolution of the Union. We have heard that threat until we are fatigued with the sound. We consider it now, let me say, as mere *brutum fulmen*, noise, and nothing else. It produces not the slightest impression upon the thinking portion of the public. You laugh at it yourselves."

Butler: "Who laugh?" (Laughter.)

Fessenden: "You at the south. You do not carry it seriously into private conversation."

Butler: "No sir; if your doctrine is carried out, if such sentiments as yours prevail, I want a dissolution right away."

Fessenden: "As has been said before, do not delay on my account." Congr. Globe, 1st Sess., 33d Congr., App., p. 323.

Seward: "This antagonism must end either in a separation of the antagonistic parties—the slaveholding states and the free states—or, secondly, in the complete establishment of the influence of the slave power over the free; or else, on the other hand, in the establishment of the superior influence of freedom over the interests of slavery. It will not be terminated by a voluntary secession of either party. Commercial interests bind the slave states and the free states together in links of gold that are riveted with iron, and they cannot be broken by passion or by ambition. Either party will submit to the ascendancy of the other rather than yield the commercial advantages of this Union. Political ties bind the Union together—a common necessity, and not merely a common necessity, but the common interests of empire—of such empire as the world has never before seen. . . . Who is there north that hates slavery so much, or who south that hates emancipation so intensely, that he can attempt with any hope of success to break a union thus forged and welded together? I have always heard, with equal pity and disgust, threats of disunion in the free states, and similar threats in the slaveholding states. I know that men may rave in the heat of passion, and under great political excitement; but I know that when it comes to a question whether the Union shall stand either with freedom or with slavery, the masses will uphold it, and it will stand until some inherent vice in its constitution, not yet disclosed, shall cause its dissolution." *Ib.*, p. 770.

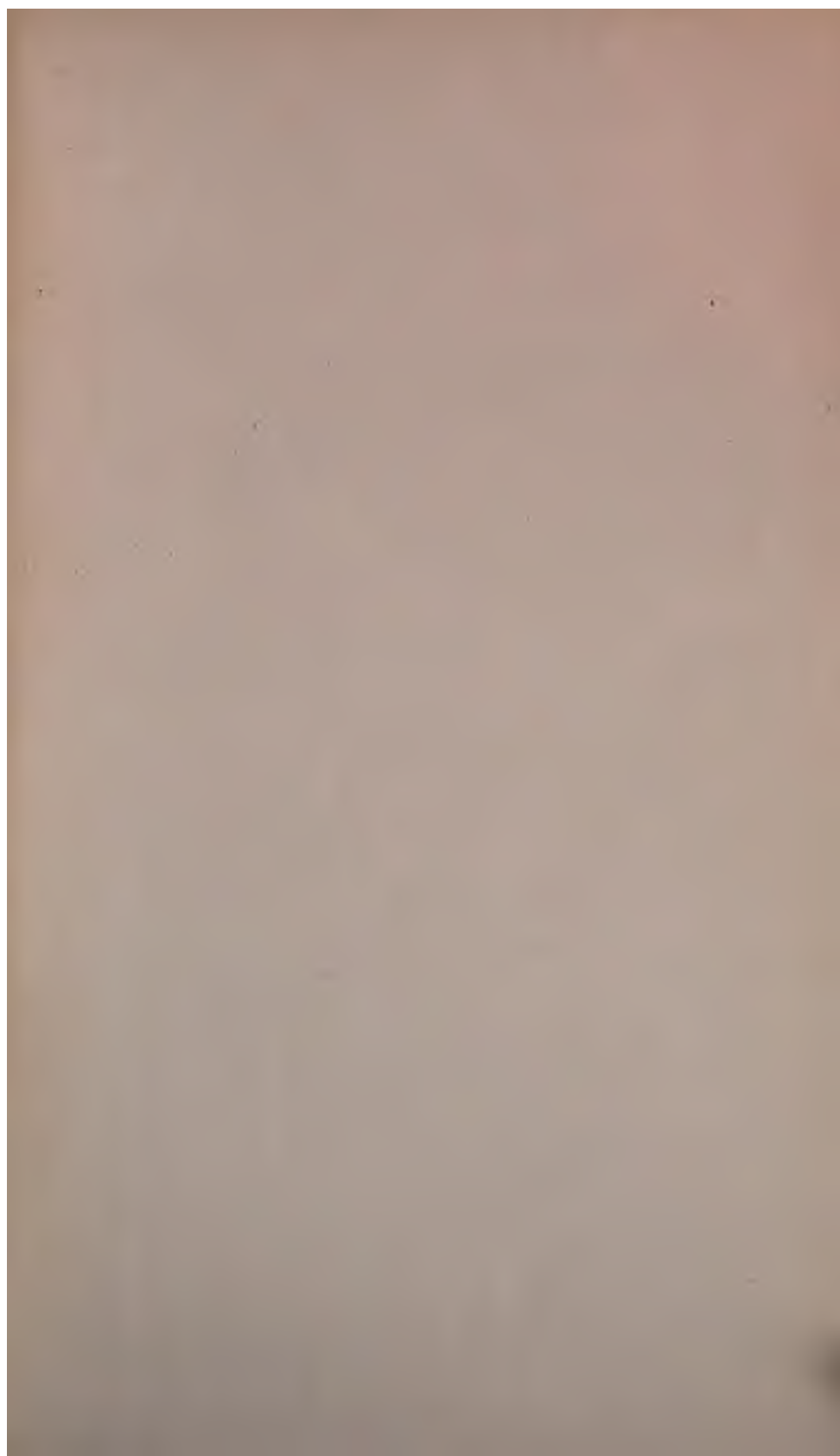
Some months later Clayton, in a lively war of words with some of his southern colleagues, declared still more emphatically that a dissolution of the Union was impossible, and that the threats were intended to serve party purposes. Congr. Globe, 2nd Sess., 33rd Congr., p. 1059. p. 1059.

















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